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**Notification No. B 10** — The Extradition (Amendment) Bill is published for general information. It was introduced in Parliament on 7 March 2022.



# Extradition (Amendment) Bill

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**Bill No. 10/2022.**

*Read the first time on 7 March 2022.*

A BILL

*intituled*

An Act to amend the Extradition Act 1968 and to make consequential and related amendments to certain other Acts.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

## Short title and commencement

1. This Act is the Extradition (Amendment) Act 2022 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

### 5 Amendment of section 2

2. Section 2 of the Extradition Act 1968 (called in this Act the principal Act) is amended —

(a) by deleting the definition of “declared Commonwealth country” in subsection (1) and substituting the following definitions:

““authorised officer” means —

(a) the Director, any Deputy Director, any Divisional Director or any other officer, of the Central Narcotics Bureau, appointed under section 3(1) of the Misuse of Drugs Act 1973;

(b) the Director, any deputy director, any assistant director or any special investigator, of the Corrupt Practices Investigation Bureau appointed under section 3(1) and (2) of the Prevention of Corruption Act 1960;

(c) any Commercial Affairs Officer appointed under section 64(1) of the Police Force Act 2004;

(d) the Controller of Immigration or any immigration officer appointed under section 3(1) of the Immigration Act 1959;

(e) the Director-General of Customs, any Deputy Director-General of Customs or any Assistant Director-General of Customs appointed under

section 4(1) and (2), any senior officer of customs appointed under section 4(4), or any officer of customs appointed under section 5(2), of the Customs Act 1960;

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(f) any police officer; or

(g) any other person or class of persons appointed by the Minister as an authorised officer or authorised officers for the purposes of this Act;

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“Convention offence” means an offence specified in the Fourth Schedule by reference to a specified written law relating to a multilateral convention or treaty;

“Convention State” means a state or territory that is a party to the multilateral convention or treaty defined in each written law specified in the Fourth Schedule;

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“declared Commonwealth territory” means a state or territory declared to be a Commonwealth territory under section 6;

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“excluded offence” means an offence described or specified in the First Schedule;”;

(b) by deleting both definitions of “extradition crime” in subsection (1) and substituting the following definition:

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““extradition offence” means —

(a) in relation to a request made by Singapore —

(i) an offence (wherever committed) against the law in force in Singapore that carries a maximum punishment of imprisonment for not less than 2 years or any more severe

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punishment, or aiding, abetting, counselling or procuring the commission of, or being an accessory to, or attempting or conspiring to commit such an offence; and

(ii) the offence is not an excluded offence;

(b) in relation to a request made by a foreign State or a declared Commonwealth territory —

(i) an offence against the law of, or of a part of, the foreign State or the declared Commonwealth territory that carries a maximum punishment of imprisonment for not less than 2 years or any more severe punishment, or aiding, abetting, counselling or procuring the commission of, or being an accessory to, or attempting or conspiring to commit such an offence; and

(ii) the act or omission constituting the offence or the equivalent act or omission would, if it took place in or within the jurisdiction of Singapore, constitute an offence against the law in force in Singapore that —

(A) carries a maximum punishment of imprisonment for not less than 2 years or any

more severe punishment;  
and

(B) is not an excluded  
offence; or

(c) any offence that is deemed to be an 5  
extradition offence under this Act or a  
written law relating to a multilateral  
convention or treaty specified in the  
Fourth Schedule;”;

(c) by deleting the definition of “foreign State” in 10  
subsection (1) and substituting the following definition:

““foreign State”, in relation to —

(a) an extradition request made to  
Singapore, means —

(i) any foreign State; or 15

(ii) any territory specified in the  
Third Schedule,

between which and Singapore an  
extradition treaty is in force; and

(b) an extradition request made by 20  
Singapore, means —

(i) any foreign State; or

(ii) any territory specified in the  
Third Schedule;”;

(d) by deleting the words “extradition crime” wherever they 25  
appear in the definition of “fugitive” in subsection (1) and  
substituting in each case the words “extradition offence”;

(e) by deleting the word “country” wherever it appears in the 30  
definitions of “fugitive” and “overseas warrant” in  
subsection (1) and substituting in each case the word  
“territory”;

(f) by inserting, immediately after the definition of “fugitive” in subsection (1), the following definition:

““material” includes any book, document or other record in whatever form, and any container or article relating thereto;”;

(g) by deleting the definition of “prison” in subsection (1) and substituting the following definitions:

““prison” has the meaning given by section 2 of the Prisons Act 1933;

“thing” includes material.”;

(h) by deleting subsections (2) and (3) and substituting the following subsections:

“(2) A reference in this Act to a fugitive from a foreign State or declared Commonwealth territory is a reference to a fugitive accused of an extradition offence that is alleged to have been committed, or convicted of an extradition offence that was committed, at a place in that State or territory or within the jurisdiction of, or of a part of, that State or territory.

(3) To avoid doubt, an offence is not prevented from falling within the definition of “extradition offence” in subsection (1) merely because it is an offence of a purely fiscal character.”;

(i) by inserting, immediately after the words “against the law of” in subsection (4), the words “, or of a part of,”;

(j) by deleting the word “country” wherever it appears in subsection (4) and substituting in each case the word “territory”;

(k) by deleting the words “shall, unless the contrary intention appears, each be deemed” in subsection (5) and substituting the words “are, unless the contrary intention appears, each deemed”;



(*l*) by deleting the words “his absence shall be treated” in subsection (6) and substituting the words “his or her absence is to be treated”; and

(*m*) by deleting subsections (7) and (8).

### **Deletion and substitution of heading to Part 2**

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3. Part 2 of the principal Act is amended by deleting the Part heading and substituting the following Part heading:

“APPLICATION OF ACT”.

### **Miscellaneous amendments for Part 2**

4. The principal Act is amended by deleting the word “Part” wherever it appears in the following provisions and substituting in each case the words “Act (except for Parts 5 and 6)”:

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Section 3(1), (2), (3) and (4) (including the section heading)

Section 4(1)(*a*) and (*b*) and (2) (including the section heading)

Section 5(1) and (2) (including the section heading).

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### **Repeal of section 6 and new section 6**

5. Section 6 of the principal Act is repealed and the following section substituted therefor:

#### **“Application to declared Commonwealth territories**

6.—(1) The Minister may declare a state or territory to be a Commonwealth territory in relation to which this Act (except for Part 6) applies and, subject to subsection (2), where there is such a declaration for the time being in force, this Act (except for Part 6) applies in relation to that state or territory.

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(2) The Minister may provide in the declaration mentioned in subsection (1) that this Act (except for Part 6) applies in relation to a declared Commonwealth territory subject to any limitations, conditions, exceptions or qualifications that are prescribed and, where the declaration for the time being in force so provides, this Act (except for Part 6) applies in relation to that territory subject to those limitations, conditions, exceptions or qualifications.”.

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**Repeal of sections 7 to 13 and Parts 3 and 4 and enactment of new Parts 3, 4 and 5**

6. Sections 7 to 13 and Parts 3 and 4 of the principal Act are repealed and the following Parts substituted therefor:

“PART 3

EXTRADITION FROM SINGAPORE

**Liability of fugitive to be surrendered**

7.—(1) Where this Part applies in relation to a foreign State or declared Commonwealth territory, every fugitive from that State or territory is liable to be apprehended and surrendered to that State or territory, subject to —

- (a) this Part;
- (b) any limitations, conditions, exceptions or qualifications to which the application of this Part in relation to that State or territory is subject; and
- (c) in the case of a declared Commonwealth territory, Part 5.

(2) Every fugitive mentioned in subsection (1) is liable under that subsection whether the offence to which the request for the surrender of the fugitive relates is alleged to have been committed, or was committed, before, on or after 1 August 1968 or before, on or after the date —

- (a) in the case of a foreign State — when this Part commenced to apply in relation to that State; and
- (b) in the case of a declared Commonwealth territory —
  - (i) when that territory became a declared Commonwealth territory; or
  - (ii) if the territory was a declared Commonwealth country under section 19(1) as in force immediately before the date of commencement of section 7 of the Extradition (Amendment) Act 2022 — when that country became a declared Commonwealth country.

## Restrictions on surrender of persons to foreign States

8.—(1) Subject to section 41(2) and any limitation, condition, exception or qualification mentioned in section 4(2), a person is not liable to be surrendered to a foreign State if the offence to which the request for his or her surrender relates — 5

(a) is an offence of a political character; or

(b) is, by reason of the circumstances in which it is alleged to have been committed or was committed, an offence of a political character.

(2) A person is not liable to be surrendered to a foreign State unless provision is made — 10

(a) by a law of that State; or

(b) by an extradition treaty in force between Singapore and that State,

by virtue of which the person will not, unless he or she has been returned, or has had an opportunity of returning, to Singapore — 15

(c) be detained or tried in that foreign State for any offence that is alleged to have been committed, or was committed, before his or her surrender other than —

(i) the offence to which the request for his or her surrender relates; or 20

(ii) any other offence of which he or she could be convicted upon proof of the facts on which that request was based; or

(d) be detained in that foreign State for the purpose of his or her being surrendered to another country for trial or punishment for any offence that is alleged to have been committed, or was committed, before his or her surrender to that foreign State other than an offence of which he or she could be convicted upon proof of the facts on which the request for his or her surrender was based. 25 30

(3) A person who —

(a) is held in custody, or has been released on bail, in Singapore in respect of an offence that is alleged to have been committed in Singapore; or

5 (b) is undergoing a sentence for a conviction in Singapore,

is not liable to be surrendered to a foreign State until he or she has been discharged from custody, or the bonds upon which he or she was released on bail have been discharged (as the case may be), whether as a result of his or her acquittal, on the expiry of his or her sentence, or otherwise.

(4) A person is not liable to be surrendered to a foreign State in respect of an offence if he or she —

15 (a) has been acquitted or pardoned by a competent tribunal or authority in any state or territory; or

(b) has undergone the punishment provided by the law of, or of a part of, any state or territory,

in respect of that offence or of another offence constituted by the same act or omission as that offence.

20 (5) A person is not liable to be surrendered to a foreign State in respect of an offence if he or she has been convicted of that offence in the foreign State in his or her absence, unless —

(a) the person had deliberately absented himself or herself from his or her trial in the foreign State; or

25 (b) the person would, if surrendered, be entitled to a retrial in his or her presence, during which he or she would have —

(i) the right to defend himself or herself, whether in person or through legal counsel; and

30 (ii) the right to examine witnesses and to call and examine witnesses in his or her defence.

(6) A person is not liable to be surrendered to a foreign State if prosecution for the offence to which the request for his or her

surrender relates is, according to the law of, or of a part of, the foreign State, barred by the passage of time.

(7) A person is not liable to be surrendered to a foreign State if the request for his or her surrender relates to an act or omission that, if it had occurred in Singapore, would have constituted an offence under the military law applicable in Singapore but not also under the ordinary criminal law of Singapore.

(8) Where a request for a surrender is made by a foreign State in relation to the enforcement of a sentence of imprisonment or other deprivation of liberty on a person who is a convicted fugitive, the Minister, at the point in time of deciding whether to give a notice under section 11 or to cancel an issued warrant under section 12(4), may determine that the person is not to be surrendered to the foreign State, if the remaining period of imprisonment or other deprivation of liberty, as the case may be —

- (a) is shorter than the period specified as being a minimal period in the provisions of any existing extradition treaty between Singapore and the foreign State; or
- (b) is less than 6 months, if no period mentioned in paragraph (a) is specified.

### **Restrictions on surrender of persons to declared Commonwealth territories**

9.—(1) Subject to sections 28(1) and 41(2) and any limitation, condition, exception or qualification mentioned in section 6(2), a person is not liable to be surrendered to a declared Commonwealth territory if the offence to which the request for his or her surrender relates —

- (a) is an offence of a political character; or
- (b) is, by reason of the circumstances in which it is alleged to have been committed or was committed, an offence of a political character.

(2) A person is not liable to be surrendered to a declared Commonwealth territory unless —

(a) provision is made by the law of, or of a part of, that territory; or

(b) that territory has entered into an agreement with, or given an undertaking to, Singapore,

5 by virtue of which the person will not, unless he or she has been returned, or has had an opportunity of returning, to Singapore —

(c) be detained or tried in that declared Commonwealth territory for any offence that is alleged to have been committed, or was committed, before his or her  
10 surrender other than —

(i) the offence to which the request for his or her surrender relates;

(ii) any other offence with a less severe punishment of which he or she could be convicted upon  
15 proof of the facts on which that request was based; or

(iii) any other extradition offence in respect of which the Minister consents to the person being so detained or tried, as the case may be; or

20 (d) be detained in that declared Commonwealth territory for the purpose of his or her being surrendered to another state or territory for trial or punishment for any offence that is alleged to have been committed, or was committed, before his or her surrender to that  
25 declared Commonwealth territory other than —

(i) any other offence with a less severe punishment of which he or she could be convicted upon  
proof of the facts on which that request was based; or

30 (ii) any other offence in respect of which the Minister could issue a warrant under this Part for the person's surrender to that other state or territory and in respect of which the Minister consents to the person being so detained.

(3) A person who —

(a) is held in custody, or has been released on bail, in Singapore in respect of an offence that is alleged to have been committed in Singapore; or

(b) is undergoing a sentence for a conviction in Singapore,

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is not liable to be surrendered to a declared Commonwealth territory until he or she has been discharged from custody, or the bonds upon which he or she was released on bail have been discharged (as the case may be), whether as a result of his or her acquittal, on the expiry of his or her sentence, or otherwise.

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(4) A person is not liable to be surrendered to a declared Commonwealth territory in respect of an offence if he or she —

(a) has been acquitted or pardoned by a competent tribunal or authority in any state or territory; or

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(b) has undergone the punishment provided by the law of, or of a part of, any state or territory,

in respect of that offence or of another offence constituted by the same act or omission as that offence.

(5) A person is not liable to be surrendered to a declared Commonwealth territory if the request for his or her surrender relates to an act or omission that, if it had occurred in Singapore, would have constituted an offence under the military law applicable in Singapore but not also under the ordinary criminal law of Singapore.

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### **Restriction on power of Minister to authorise apprehension, or order surrender, of fugitive**

**10.**—(1) The Minister must not give a notice under section 11(1), or issue a warrant under section 19(2) or (8), in respect of a fugitive from a foreign State or declared Commonwealth territory, if the Minister has substantial grounds for believing that —

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(a) the request for the surrender of the fugitive, although purporting to have been made in respect of an offence for which, but for this section, he or she would be liable to be surrendered to that State or territory, was made for the purpose of prosecuting or punishing him or her on account of his or her race, religion, sex, ethnic origin, nationality or political opinions; or

(b) if the fugitive is surrendered to that State or territory, he or she may be prejudiced at his or her trial, or punished, detained or restricted in his or her personal liberty, by reason of his or her race, religion, sex, ethnic origin, nationality or political opinions.

(2) If the Minister is satisfied that, by reason of —

(a) the trivial nature of the offence that a fugitive is alleged to have committed or has committed;

(b) the accusation against a fugitive not having been made in good faith or in the interests of justice;

(c) the passage of time since the offence is alleged to have been committed or was committed; or

(d) any other sufficient cause,

and having regard to the circumstances under which the offence is alleged to have been committed or was committed, it would be unjust, oppressive or too severe a punishment to surrender the fugitive, or to surrender him or her before the expiry of a particular period, the Minister must not give a notice under section 11(1) or issue a warrant under section 19(2) or (8) in respect of the fugitive, as the case may be.

### **Notice by Minister**

**11.**—(1) Subject to subsection (2), where a request for the surrender of a fugitive who is, or is suspected of being, in or on his or her way to Singapore is made to the Minister by a foreign State or declared Commonwealth territory, the Minister may, in his or her discretion —



(a) if a warrant for the apprehension of the fugitive has not been issued under section 12, by written notice —

(i) in accordance with Form 1 in the Second Schedule; and

(ii) directed to a Magistrate,

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inform the Magistrate that the request has been made and authorise him or her to issue a warrant for the apprehension of the fugitive; or

(b) if a warrant for the apprehension of the fugitive has been issued under section 12 and a person has been apprehended under the warrant, by written notice —

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(i) in accordance with Form 2 in the Second Schedule; and

(ii) directed to a Magistrate before whom the person may be brought,

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inform the Magistrate that the request has been made.

(2) If the Minister is of the opinion that the fugitive is not liable to be surrendered to the foreign State or declared Commonwealth territory, the Minister must not give a notice under subsection (1) in respect of the fugitive.

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### **Issue of warrants by Magistrate**

**12.—(1)** Where —

(a) a Magistrate —

(i) is authorised by the Minister by a notice under section 11(1)(a) to issue a warrant for the apprehension of a fugitive; or

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(ii) has received an application made as prescribed for the issue of a warrant for the apprehension of a fugitive who is, or is suspected of being, in or on his or her way to Singapore; and

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(b) there is produced to the Magistrate such evidence as would, in his or her opinion, according to the law in force in Singapore, justify —

(i) the apprehension of the fugitive by an authorised officer without the issue of a warrant; or

(ii) the issue of a warrant for the apprehension of the fugitive,

if the act or omission constituting the extradition offence had taken place in, or within the jurisdiction of Singapore,

the Magistrate is to issue a warrant for the apprehension of the fugitive in accordance with Form 3 or 4 (as the case may be) in the Second Schedule.

(2) Where a Magistrate issues a warrant under this section without having been authorised by the Minister by a notice under section 11(1)(a) to issue the warrant, the Magistrate is to forthwith send to the Minister a report stating that the Magistrate has issued the warrant and the evidence produced to the Magistrate on the application for the warrant.

(3) It is sufficient compliance with subsection (2) in relation to any evidence consisting of testimony given on oath, or declared or affirmed to be true, by a person if —

(a) where the testimony was given in writing — the Magistrate sends to the Minister a copy of that writing certified by the Magistrate to be a true copy; or

(b) where the testimony was given orally —

(i) if the testimony has been reduced to writing, the Magistrate sends to the Minister that writing certified by the Magistrate to be a true record of the testimony; or

(ii) if the testimony has not been reduced to writing, the Magistrate sends to the Minister the notes made by the Magistrate in respect of the

testimony and certified by the Magistrate to be a true summary of the testimony.

(4) Where the Minister —

(a) receives a report of the issue of a warrant and the evidence as provided by subsections (2) and (3); or 5

(b) otherwise becomes aware of the issue of a warrant,

the Minister may, if he or she thinks fit, by written order, direct that the warrant be cancelled.

(5) Where a person has been apprehended under a warrant that is so directed to be cancelled — 10

(a) if the person apprehended is held in custody, the person holding him or her in custody must, upon receipt of the order, cause the person apprehended to be released; or

(b) if the person apprehended has been released on bail, the bonds upon which he or she was released on bail must be discharged. 15

### **Power to execute warrant**

13. A warrant issued under section 12 may be executed by any authorised officer. 20

### **Bail and bond**

14.—(1) Division 5 (Bails and bonds) of Part 6 of the Criminal Procedure Code 2010 applies to an application made under this Act for bail or personal bond or to the release of a fugitive on bail or on his or her own bond under this Act with the following modifications: 25

(a) a reference to an accused is a reference to the fugitive;

(b) a reference to an arrest is a reference to the apprehension or taking into custody of a fugitive;

(c) a reference to a conviction is a reference to the committal to prison or custody of a fugitive; 30

(d) a reference to an acquittal is a reference to the discharge of a fugitive.

(2) If there is any inconsistency between Division 5 of Part 6 of the Criminal Procedure Code 2010 and any provision of this Act, the provision of this Act prevails.

### **Search and seizure upon and after apprehension of person**

**15.**—(1) Where an authorised officer who executes a warrant issued under section 12 has reasonable grounds for suspecting that there is any thing on, in the possession of, or under the apparent control of the person who is the subject of the warrant that —

(a) may be material as evidence in proving an offence to which the warrant for his or her arrest relates; or

(b) has been acquired by the person as a result of that offence,

the authorised officer may search for and, subject to subsection (3), seize that thing.

(2) Where at any point in time after the arrest of the person mentioned in subsection (1) and up to the time the person is surrendered to the requesting foreign State or declared Commonwealth territory (as the case may be), an authorised officer becomes aware that there are reasonable grounds for suspecting that there is in any place any thing that —

(a) may be material as evidence in proving an offence to which the warrant for the person's arrest relates; or

(b) has been acquired by the person as a result of that offence,

the authorised officer may search for and, subject to subsection (3), seize that thing.

(3) An authorised officer carrying out a search and seizure under subsection (1) or (2) may only seize any thing that is identified or described by the requesting foreign State or

declared Commonwealth territory, whether in the request for surrender or otherwise.

### **Proceedings after apprehension of person**

**16.—**(1) A person who is apprehended under a warrant issued under section 12 must, unless he or she is sooner released, be brought as soon as practicable before a Magistrate. 5

(2) The Magistrate may remand a person brought before him or her under this section, either in custody or on bail, for a period or periods not exceeding 7 days at any one time.

(3) Where a Magistrate remands a person for the period in accordance with subsection (2), the person must, at the expiry of the period, be brought before the Magistrate or before any other Magistrate. 10

(4) Whenever a person is brought before a Magistrate under subsection (1) or (3), the Magistrate is to ascertain from the person whether he or she wishes to consent to his or her surrender to the foreign State or declared Commonwealth territory, and — 15

(a) where the person indicates to the Magistrate that he or she wishes to consent to his or her surrender to the foreign State or declared Commonwealth territory — 20

(i) the procedure under section 21 applies; and

(ii) this section no longer applies; and

(b) in every other case, this section continues to apply.

(5) In the application of subsections (6) to (10) in relation to a person who has been apprehended under a warrant issued under section 12, “Magistrate” means the Magistrate before whom the person is brought after he or she was apprehended or at the expiry of a period for which he or she has been remanded under this section, as the case may be. 25 30

(6) If the person was apprehended under a warrant issued otherwise than in pursuance of an authority by the Minister in a notice under section 11(1)(a), the Magistrate is to remand the

person in accordance with subsections (2) and (3) until the Magistrate receives a notice under section 11(1)(b) from the Minister informing the Magistrate that a request for the surrender of the person has been made to the Minister by a foreign State or declared Commonwealth territory.

(7) Where the Magistrate does not receive a notice under section 11(1)(b) mentioned in subsection (6) within such time as is reasonable having regard to all the circumstances, the Magistrate —

- (a) if the person apprehended is held in custody, is to order that he or she be released; or
- (b) if the person apprehended has been released on bail, is to make an order discharging the bonds upon which the person apprehended was released on bail.

(8) If the person was apprehended under a warrant issued pursuant to an authority by the Minister in a notice under section 11(1)(a) or the Magistrate receives a notice from the Minister under section 11(1)(b) and —

(a) there is produced to the Magistrate a duly authenticated foreign warrant or overseas warrant in respect of the person issued in the foreign State or declared Commonwealth territory (as the case may be) that made the request for the surrender of the person;

(b) the Magistrate is satisfied that there is —

(i) in the case of a person who is accused of an extradition offence — a prima facie case that would justify the trial of the person if the act or omission constituting that offence had taken place in, or within the jurisdiction of, Singapore; or

(ii) in the case of a person who is alleged to have been convicted of an extradition offence — sufficient evidence that the person has been convicted of that offence; and

- (c) the Magistrate is satisfied, after hearing any evidence tendered by the person, that the person is liable to be surrendered to the foreign State or declared Commonwealth territory that made the request for the surrender,

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the Magistrate, by warrant in accordance with Form 5 in the Second Schedule, is to commit the person to prison to await the warrant of the Minister for the person's surrender but otherwise, subject to section 17, is to order that the person be released.

(9) Where the Magistrate is of the opinion that it would be dangerous to the life or prejudicial to the health of the person to commit him or her to prison, the Magistrate may, in lieu of committing the person to prison, by warrant in accordance with Form 5 in the Second Schedule with any modification that is necessary to meet the circumstances of the case, order that he or she be held in custody —

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- (a) at the place where he or she is for the time being, or at any other place to which the Magistrate considers that he or she can be removed without danger to his or her life or prejudice to his or her health; and

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- (b) until such time as he or she can without such danger or prejudice be committed to prison or he or she is surrendered.

(10) Where, under this section, a Magistrate commits a person to prison or otherwise orders that he or she be held in custody, the Magistrate is to forthwith send to the Minister a certificate to that effect and such report (if any) relating to the proceedings as the Magistrate thinks fit.

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(11) If the person mentioned in subsection (10) escapes from prison or custody, the person may be arrested in the same manner as a person accused of an arrestable offence against the law in force in Singapore may be arrested upon an escape from lawful custody.

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## Review of Magistrate's order

17.—(1) Where —

- (a) a foreign State or declared Commonwealth territory has made a request for the surrender of a person; and
- 5 (b) a Magistrate has, under section 16(8), ordered that the fugitive be committed to prison or ordered that the fugitive be released, as the case may be,

the fugitive or the Attorney-General (on behalf of the foreign State or declared Commonwealth territory) may apply for a review of the order by the General Division of the High Court on a question of fact or a question of law or on a question of mixed fact and law.

(2) On the review of an order, the General Division of the High Court may —

- 15 (a) confirm or vary the Magistrate's order;
- (b) quash the Magistrate's order and substitute a new order in its stead, including —
  - (i) an order for the release of the fugitive; or
  - (ii) an order for the committal of the fugitive to prison to await the warrant of the Minister for the fugitive's surrender to the foreign State or declared Commonwealth territory, as the case may be;
- 20 (c) remit the case to the Magistrate with the opinion of the General Division of the High Court;
- 25 (d) make any order or direction that the Magistrate may make under section 19 or 20; or
- (e) make any other order or direction as the General Division of the High Court thinks fit.

30 (3) There is no appeal against the decision of the General Division of the High Court under subsection (2).



(4) A notice of an application for review of an order mentioned in subsection (1) —

(a) must be in Form 10 in the Second Schedule; and

(b) must be filed with the Registrar of the State Courts not later than 15 days after the order is made. 5

(5) A notice of an application for review of an order operates as a stay of the Magistrate's order until the later of the following dates:

(a) the expiry of the period of 15 days, starting on the day after which the order was made; 10

(b) if a review is pending, the date that the proceedings are finally determined by the General Division of the High Court.

(6) A notice of an application for review of an order, together with any relevant document required in Form 10 in the Second Schedule, must be served — 15

(a) where the application for review is brought by the fugitive — on the Attorney-General; or

(b) where the application for review is brought by the Attorney-General — on the fugitive or his or her counsel. 20

(7) Where the Magistrate is informed that the Attorney-General intends to apply for a review of an order discharging a fugitive, the Magistrate may, on the application of the Attorney-General, order that the fugitive be remanded in custody for a period not exceeding 24 hours pending the filing of the notice of an application for review of an order by the Attorney-General. 25

(8) Where notice of an application for review of an order has been filed by either party, the Magistrate may — 30

(a) commit the fugitive to prison pending the determination of the review by the General Division of the High Court; or

(b) subject to subsection (9), release the fugitive on bail.

(9) Where the Magistrate has ordered that the fugitive be committed to prison under section 16(8), the conditions in section 95(2)(c) of the Criminal Procedure Code 2010 apply to the release of the fugitive on bail under subsection (8), but where the Magistrate has not so ordered, those conditions do not apply to the fugitive's release on bail.

(10) The General Division of the High Court may, upon application by either party, review the decision of the Magistrate under subsection (8) and may confirm, vary or set aside the Magistrate's decision or make any other order or direction as the General Division of the High Court thinks fit.

(11) Where notice of an application for review of an order has been filed —

(a) the Magistrate must, as soon as possible, transmit to the General Division of the High Court —

(i) the record of the case and all affidavits, statements, documents and exhibits tendered before the Magistrate;

(ii) the notes of evidence;

(iii) the grounds for the Magistrate's decision; and

(iv) the Magistrate's finding on any question of law or fact or mixed law and fact which arose during the proceedings; and

(b) the Registrar of the State Courts must, as soon as possible, serve on the fugitive or the fugitive's counsel at the address mentioned in the notice of application for review, a notice that a copy each of the documents mentioned in paragraph (a) are available and can be obtained by applying for those documents.

(12) An application for review of an order under this section —

(a) does not require permission of the court;

- (b) must be in Form 11 in the Second Schedule;
- (c) must contain the particulars of the order on which review is sought and the particulars of the question of fact or law or of mixed fact and law mentioned in subsection (1); and
- (d) must be filed with the Registrar of the State Courts not later than 14 days after service of the documents mentioned in subsection (11).

5

(13) Sections 377(6), (6A) and (7), 378(3) to (7), 379, 380, 381 and 392(1) to (4) of the Criminal Procedure Code 2010 apply to a review under this section with the necessary modifications as if the review were an appeal against the decision in a criminal trial by a Magistrate's Court or District Court under that Code, and a reference in those provisions —

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- (a) to a notice of appeal is a reference to a notice of an application for review of an order;
- (b) to an appellant is a reference to the fugitive or the Attorney-General, as the case may be;
- (c) to an accused is a reference to the fugitive;
- (d) to the Public Prosecutor is a reference to the Attorney-General; and
- (e) to a petition of appeal is a reference to an application for review.

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(14) If there is any inconsistency between the sections of the Criminal Procedure Code 2010 mentioned in subsection (13) and any provision of this Act, the provision of this Act prevails.

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(15) The General Division of the High Court must cause notice to be given to the parties to the review of the time and place at which the review will be heard.

(16) To avoid doubt, section 417 of the Criminal Procedure Code 2010 on application for order for review of detention does not apply —

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- (a) to any person ordered to be committed to prison under section 16(8); or
- (b) to any person ordered by the General Division of the High Court to be committed to prison under subsection (2).

**Reference to Court of Appeal of matter determined by General Division of High Court**

18.—(1) When an order has been reviewed and determined by the General Division of the High Court under section 17, and a party to the proceedings wishes to refer any question of law of public interest which has arisen in the matter and the determination of which by the General Division of the High Court has affected the case, that party may apply to the Court of Appeal for permission to refer the question to the Court of Appeal.

(2) The Attorney-General may refer any question of law of public interest under this section without the permission of the Court of Appeal.

(3) An application under subsection (1) or a reference under subsection (2) —

- (a) must be made within 15 days, or any longer period as the Court of Appeal may permit, after the determination of the matter to which it relates; and
- (b) in the case of an application by the Attorney-General, must be made by him or her or with his or her written consent.

(4) An application made under subsection (1) by a party who is not the Attorney-General —

- (a) must be in Form 12 in the Second Schedule;
- (b) must be supported by an affidavit setting out a concise statement of the facts, the relief or remedy required and the reasons for the relief or remedy; and

(c) must be sealed by an officer of the Registry of the Supreme Court.

(5) Where an application under subsection (1) or a reference under subsection (2) is made, the General Division of the High Court must send to the Court of Appeal a signed copy of the record of the proceedings, and the grounds of decision, for the matter to which the application or reference relates.

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(6) Where —

(a) a party applies under subsection (1) for permission to refer a question to the Court of Appeal; and

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(b) it appears to the Court of Appeal that the question is not a question of law of public interest which has arisen in the matter, and the determination of which has affected the case, to which the application relates,

the application may, without being set down for hearing, be summarily refused by an order made by a presiding Judge sitting in the Court of Appeal, certifying that the Court of Appeal is satisfied that the application was made without any sufficient ground.

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(7) A decision of the Court of Appeal to summarily refuse under subsection (6) an application under subsection (1) can only be made by a unanimous decision of all the Judges sitting in the Court of Appeal.

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(8) Notice of a refusal under subsection (6) of an application under subsection (1) must be served on the applicant.

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(9) Where, after the Court of Appeal has summarily refused under subsection (6) an application under subsection (1) (called in this subsection the application for permission), the applicant files, within 14 days after the service of the notice of the refusal on the applicant, with the Registrar of the Supreme Court —

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(a) notice of an application to amend the application for permission, so as to raise a question of law of public interest which has arisen in the matter, and the

determination of which has affected the case, to which the application for permission relates; and

(b) a certificate signed by an advocate specifying the question to be raised and undertaking to argue it,

5 the Chief Justice may allow the applicant to amend the application for permission accordingly, and must restore the application for permission for hearing.

10 (10) In granting permission to refer any question of law of public interest under subsection (1), or where the Attorney-General refers any question of law of public interest under subsection (2), the Court of Appeal may —

(a) reframe the question or questions to reflect the relevant issue of law of public interest; and

15 (b) make such orders as the Court of Appeal may see fit for the arrest, custody or release on bail of any party in the case.

20 (11) The Court of Appeal, in hearing and determining any questions referred, may make any order that the General Division of the High Court might have made as the Court of Appeal considers just for the disposal of the case.

(12) For the purposes of this section, each of the following is deemed to be a question of law of public interest:

(a) any question of law regarding which there is a conflict of judicial authority;

25 (b) any question of law that the Attorney-General refers.

### **Surrender of fugitive**

30 **19.**—(1) When, under this Part, a Magistrate commits a person (called in this section the prisoner) to prison, or otherwise orders that he or she be held in custody, to await the warrant of the Minister for his or her surrender to a foreign State or declared Commonwealth territory (as the case may be), the Magistrate is to inform the prisoner —

- (a) that the prisoner may apply for a review of the order under section 17 or waive his or her right to do so; and
- (b) that the prisoner will not be surrendered until after the expiry of the period of 15 days after the date of the committal or order, unless the prisoner waives his or her right to apply for a review of the order under section 17.

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(2) After the later of the following dates:

- (a) the expiry of the period mentioned in subsection (1)(b);
- (b) if an application for review of the order is brought, the date that the proceedings are finally determined by the General Division of the High Court,

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the Minister may if he or she decides that the prisoner is to be surrendered to the foreign State or declared Commonwealth territory, issue a warrant —

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- (c) in accordance with Form 6 in the Second Schedule; or
- (d) where the prisoner is held in custody otherwise than at a prison, in accordance with that Form with any modification that is necessary to meet the circumstances of the case.

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(3) A prisoner who is committed to prison or held in custody under subsection (1) may indicate, at any time within the period of 15 days after the date of the committal or order, that he or she wishes to waive his or her right to apply for a review of the order under section 17.

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(4) Where a prisoner indicates that he or she wishes to waive his or her right to apply for a review of the order under section 17, the Magistrate must, before recording the prisoner's consent to the waiver —

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- (a) ascertain that the prisoner's consent is given voluntarily; and
- (b) inform the prisoner of the following consequences of his or her consent to the waiver:

- (i) the remainder of the 15-day waiting period after the date of the committal or order will be lifted;
- (ii) the prisoner will be surrendered to the foreign State or declared Commonwealth territory as soon as practicable;
- (iii) the prisoner will not be entitled to apply for a review of the order under section 17.

(5) Where —

- (a) the Magistrate is satisfied that the prisoner's consent is given voluntarily; and
- (b) the prisoner, after having been informed of the consequences of his or her consent to the waiver in accordance with subsection (4)(b), affirms his or her consent,

the Magistrate must record the prisoner's consent to the waiver and must commit him or her to prison to await the warrant of the Minister for his or her surrender to the foreign State or declared Commonwealth territory.

(6) Where the Magistrate is of the opinion that it would be dangerous to the life or prejudicial to the health of the person to commit him or her to prison, the Magistrate may, in lieu of committing the person to prison, by warrant in accordance with Form 5 in the Second Schedule with any modification that is necessary to meet the circumstances of the case, order that he or she be held in custody —

- (a) at the place where he or she is for the time being, or at any other place to which the Magistrate considers that he or she can be removed without danger to his or her life or prejudice to his or her health; and
- (b) until such time as he or she can without such danger or prejudice be committed to prison or he or she is surrendered.

(7) Where, under this section, a Magistrate commits a person to prison or otherwise orders that he or she be held in custody,



the Magistrate is to forthwith send to the Minister a certificate to that effect and such report (if any) relating to the proceedings as the Magistrate thinks fit.

(8) Where the Magistrate has recorded the prisoner's consent in accordance with subsection (5), the Minister may, after the date of the recording of the consent, if he or she is satisfied that the prisoner is to be surrendered to the foreign State or declared Commonwealth territory, issue a warrant —

- (a) in accordance with Form 6 in the Second Schedule; or
- (b) where the prisoner is held in custody otherwise than at a prison, in accordance with that Form with any modification that is necessary to meet the circumstances of the case.

(9) A warrant issued under subsection (2) or (8) may order that the prisoner —

- (a) be delivered into the custody of a person specified in the warrant;
- (b) be conveyed by that person to a place in the foreign State or declared Commonwealth territory or within the jurisdiction of, or of a part of, that State or territory; and
- (c) be surrendered there to some person appointed by the foreign State or declared Commonwealth territory to receive him or her.

(10) If the prisoner escapes from the custody of the person executing the warrant, he or she may be arrested in the same manner as a person accused of an arrestable offence against the law in force in Singapore may be arrested upon an escape from lawful custody.

### **Court's powers relating to property**

**20.—**(1) Any property —

- (a) that was in the possession of the prisoner at the time of his or her apprehension; or

(b) that was seized under section 15,

that may be material as evidence in proving the offence to which the request for his or her surrender relates must, if the Minister so directs, be delivered up with the prisoner on his or her surrender.

(2) Where any property —

(a) was in the possession of the prisoner at the time of his or her apprehension or was seized under section 15; and

(b) was not delivered up with the prisoner on his or her surrender in accordance with subsection (1),

a Magistrate may by order direct that the property be disposed of —

(c) by being delivered to the person whom the Magistrate is satisfied is entitled to possession of the property; or

(d) in any other manner as the Magistrate thinks fit.

(3) If an order is made under this section in a case in which a review of a Magistrate's order under section 17 is pending, the order must not, except where the property is perishable, be carried out until the period allowed for the review has expired or the review has been finally determined.

### **Surrender by consent**

**21.**—(1) A person who is apprehended under a warrant issued under section 12 may, at any time after his or her arrest, inform a Magistrate that he or she consents to his or her surrender to the foreign State or declared Commonwealth territory.

(2) Where a person indicates his or her consent to surrender to the foreign State or declared Commonwealth territory, the Magistrate must, before recording the person's consent —

(a) ascertain that the person's consent is given voluntarily; and

(b) inform the person of the following consequences of his or her consent to extradition:

(i) the person will be committed to prison pending his or her surrender without extradition proceedings; 5

(ii) the person will not be entitled to apply for a review under section 17 following his or her committal;

(iii) the person will be surrendered to the foreign State or declared Commonwealth territory as soon as practicable; 10

(iv) upon the person's surrender to the foreign State or declared Commonwealth territory, he or she —

(A) will be tried for the offence in respect of which his or her extradition was requested, or any lesser offence proved by the facts on which his or her extradition was requested; and 15

(B) may be tried for any other offence to which he or she consents to be tried. 20

(3) Where —

(a) the Magistrate is satisfied that the person's consent is given voluntarily; and

(b) the person, after having been informed of the consequences of his or her consent to extradition in accordance with subsection (2)(b), affirms his or her consent, 25

the Magistrate must record the person's consent to surrender and, subject to subsection (6), must commit him or her to prison to await the warrant of the Minister under section 19(8) for his or her surrender to the foreign State or declared Commonwealth territory. 30

(4) Where the Magistrate is of the opinion that it would be dangerous to the life or prejudicial to the health of the person to commit him or her to prison, the Magistrate may, in lieu of committing the person to prison, by warrant in accordance with Form 5 in the Second Schedule with any modification that is necessary to meet the circumstances of the case, order that he or she be held in custody —

(a) at the place where he or she is for the time being, or at any other place to which the Magistrate considers that he or she can be removed without danger to his or her life or prejudice to his or her health; and

(b) until such time as he or she can without such danger or prejudice be committed to prison or he or she is surrendered.

(5) Where, under this section, a Magistrate commits a person to prison or otherwise orders that he or she be held in custody, the Magistrate is to forthwith send to the Minister a certificate to that effect and such report (if any) relating to the proceedings as the Magistrate thinks fit.

(6) The Magistrate is not to issue an order detaining the person pending his or her surrender unless the Magistrate has received —

(a) a notice under section 11(1) from the Minister; and

(b) a duly authenticated foreign warrant or overseas warrant in respect of the person issued in the foreign State or declared Commonwealth territory, that made the request for the surrender of the person, as the case may be.

(7) In determining whether to issue a warrant of surrender, the Minister must determine whether the restrictions on surrender under sections 8, 9 and 10 are applicable, and if any of the restrictions on surrender in those sections are applicable, the Minister is not to issue a warrant of surrender.

(8) Where the person is committed to prison under subsection (3) —

- (a) the 15-day waiting period after committal under section 19 does not apply; and
- (b) upon the Minister issuing a warrant of surrender, the person is to be surrendered to the foreign State or declared Commonwealth territory as soon as practicable. 5

**Discharge of fugitive not conveyed out of Singapore within 2 months**

22.—(1) A person who, under this Part —

- (a) has been committed to prison, or otherwise ordered to be held in custody; and 10
- (b) is in custody in Singapore at the expiry of 2 months after the latest of the following dates:
  - (i) the date of the committal or order;
  - (ii) if an application for review of the order is brought, the date that the proceedings are finally determined by the General Division of the High Court; 15
  - (iii) if a reference is made to the Court of Appeal under section 18, the date that the proceedings are finally determined by the Court of Appeal, 20

may apply to the General Division of the High Court to be released.

(2) Subject to subsection (3), where an application is made under subsection (1), the General Division of the High Court, upon proof that reasonable notice of the intention to make the application has been given to the Minister, is to order that the person be released. 25

(3) The General Division of the High Court is not to order that the person be released if reasonable cause is shown for the delay mentioned in subsection (1)(b). 30

## PART 4

## EXTRADITION TO SINGAPORE

**Application of this Part**

5       **23.** This Part applies in relation to extradition of any person to Singapore —

- (a) from a foreign State; or
- (b) from a declared Commonwealth territory, subject to Part 5.

**Request for surrender of person to be made by Minister**

10       **24.** Where a person accused or convicted of an extradition offence is, or is suspected of being —

- (a) in or on his or her way to a foreign State or within the jurisdiction of a foreign State; or
- (b) in or on his or her way to a declared Commonwealth territory or within the jurisdiction of a declared Commonwealth territory,

15       the Minister may make a request to that State or territory for the surrender of the person.

**Person surrendered may be brought into Singapore**

20       **25.** Where a person accused or convicted of an extradition offence is surrendered by a foreign State or declared Commonwealth territory, the person may be brought to Singapore by any authorised officer and delivered to the proper authorities to be dealt with according to law.

**Person surrendered to Singapore in respect of offence not to be prosecuted or detained for other offences**

25       **26.—**(1) Where a person accused or convicted of an extradition offence is surrendered by a foreign State, the person must not, unless he or she has been returned, or has  
30       had an opportunity of returning, to that State —

- (a) be detained or tried in Singapore for any offence that is alleged to have been committed, or was committed, before his or her surrender other than —
- (i) the offence to which the request for his or her surrender relates; or 5
  - (ii) any other offence of which he or she could be convicted upon proof of the facts on which that request was based; or
- (b) be detained in Singapore for the purpose of his or her being surrendered to another country or territory for trial or punishment for any offence that is alleged to have been committed, or was committed, before his or her surrender to Singapore other than an offence of which he or she could be convicted upon proof of the facts on which the request for his or her surrender was based. 10 15

(2) Where a person accused or convicted of an extradition offence is surrendered by a declared Commonwealth territory, the person must not, unless he or she has been returned, or has had an opportunity of returning, to that territory — 20

- (a) be detained or tried in Singapore for any offence that is alleged to have been committed, or was committed, before his or her surrender other than —
- (i) the offence to which the request for his or her surrender relates; 25
  - (ii) any other offence with a less severe punishment of which he or she could be convicted upon proof of the facts on which that request was based; or
  - (iii) any other extradition offence in respect of which the declared Commonwealth territory consents to the person being so detained or tried, as the case may be; or 30

(b) be detained in Singapore for the purpose of his or her being surrendered to another country or territory for trial or punishment for any offence that is alleged to have been committed, or was committed, before his or her surrender to Singapore other than —

(i) any other offence with a less severe punishment of which he or she could be convicted upon proof of the facts on which that request was based; or

(ii) any other extradition offence in respect of which the declared Commonwealth territory by which the person was surrendered to Singapore consents to his or her being so detained.

## PART 5

### ADDITIONAL PROVISIONS IN RELATION TO DECLARED COMMONWEALTH TERRITORIES

#### **Application of this Part in relation to declared Commonwealth territories**

27. Subject to this Part —

(a) extradition from Singapore to a declared Commonwealth territory is governed by Part 3; and

(b) extradition to Singapore from a declared Commonwealth territory is governed by Part 4.

#### **Offences not of political character in declared Commonwealth territories**

28.—(1) For the purposes of section 9(1) and subject to subsection (2), the following offences are not offences of a political character:

(a) an offence against the life or person of —

(i) a head of state of the declared Commonwealth territory; or



- (ii) a member of the immediate family of a head of state of the declared Commonwealth territory;
- (b) an offence against the life or person of a head of a government, or of a minister of a government, of the declared Commonwealth territory; 5
- (c) murder;
- (d) an offence of aiding, abetting, counselling or procuring the commission of, or being an accessory before or after the fact to, or attempting or conspiring to commit, any of the offences mentioned in paragraphs (a), (b) and (c). 10

(2) The Minister may, by order, restrict the application of any of the categories of offences mentioned in subsection (1) to a request made by a declared Commonwealth territory, if the declared Commonwealth territory has made provisions similar to subsection (1) in its laws. 15

**Additional restrictions on power of Minister to authorise apprehension, or order surrender, of fugitive**

29. The Minister may decline to give a notice under section 11(1), or issue a warrant under section 19(2) or (8), in respect of a fugitive from a declared Commonwealth territory, if the Minister is of the opinion that — 20

- (a) the judgment against the fugitive in the declared Commonwealth territory was rendered against him or her in his or her absence, unless — 25
  - (i) the person had deliberately absented himself or herself from his or her trial in the declared Commonwealth territory; or
  - (ii) the person would, if surrendered, be entitled to a retrial in his or her presence, during which he or she would have — 30
    - (A) the right to defend himself or herself, whether in person or through legal counsel; and

(B) the right to examine witnesses and to call and examine witnesses in his or her defence;

(b) the offence for which extradition of the fugitive is requested —

(i) was committed outside Singapore and the declared Commonwealth territory; and

(ii) is not an extra-territorial offence under the law of, or of a part of, the declared Commonwealth territory; or

(c) the fugitive has, under the law of Singapore or the law of, or of a part of, the declared Commonwealth territory, become immune from prosecution or punishment because of any reason, including lapse of time or amnesty.

**Person surrendered may consent to other offences being taken into consideration for sentencing**

30. This Act does not prevent a court in —

(a) a declared Commonwealth territory — where a fugitive is surrendered by Singapore to that territory; or

(b) Singapore — where a fugitive is surrendered by a declared Commonwealth territory to Singapore,

from taking into account, with the fugitive's consent, any other offence (whether an extradition offence or otherwise) committed by the fugitive in determining and passing sentence for the offence for which the fugitive was surrendered.”.

**Renumbering of Part 5**

7. Part 5 of the principal Act is renumbered as Part 6.

**Amendment of section 32**

8. Section 32(2) of the principal Act is amended —

- (a) by deleting the words “a seizable offence” and substituting the words “an arrestable offence”; and
- (b) by inserting, immediately after the words “6 months or more”, the words “or any more severe punishment”.

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**Amendment of section 33**

9. Section 33 of the principal Act is amended —

- (a) by inserting, immediately after the words “in or on his” in subsection (1), the words “or her”;
- (b) by deleting the words “shall be sufficient authority” in subsection (2) and substituting the words “is sufficient authority”; and
- (c) by deleting the words “all police officers” in subsection (2) and substituting the words “all authorised officers”.

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**Amendment of section 34**

10. Section 34 of the principal Act is amended —

- (a) by deleting the words “not produced to him or he requires” and substituting the words “not produced to him or her or he or she requires”; and
- (b) by deleting the words “in his opinion” and substituting the words “in the Magistrate’s opinion”.

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**Amendment of section 35**

11. Section 35 of the principal Act is amended —

- (a) by deleting the words “shall be” in subsection (1) and substituting the words “must be”;
- (b) by inserting, immediately after the word “him” in subsection (2), the words “or her”;
- (c) by deleting the words “the person may” in subsection (3) and substituting the words “the person must”;

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(d) by deleting the words “after he was apprehended or at the expiration of a period for which he has been remanded” in subsection (4) and substituting the words “after the person was apprehended or at the expiry of a period for which the person has been remanded”;

(e) by deleting the words “and shall” in subsection (5) and substituting the words “and must”;

(f) by deleting the words “order that he be released” in subsection (5)(a) and substituting the words “order that the person be released”;

(g) by deleting paragraph (b) of subsection (5) and substituting the following paragraph:

“(b) if the person apprehended has been released on bail, make an order discharging the bonds upon which he or she was released on bail.”;

(h) by deleting the words “the Magistrate shall” in subsection (6) and substituting the words “the Magistrate is to”;

(i) by deleting subsection (7) and substituting the following subsection:

“(7) Where the Magistrate is of the opinion that it would be dangerous to the life or prejudicial to the health of the person to surrender him or her to the country mentioned in subsection (6), the Magistrate may, in lieu of ordering that the person be surrendered to Malaysia, by warrant, order that he or she be held in custody at the place where he or she is for the time being, or at any other place to which the Magistrate considers that the person can be removed without danger to his or her life or prejudice to his or her health, until such time as he or she can without such danger or prejudice be surrendered to Malaysia.”;

(j) by deleting the words “the warrant shall” in subsection (8) and substituting the words “the warrant must”;

- (k) by inserting, immediately after the word “he” in subsection (10), the words “or she”;
- (l) by deleting the word “retaken” wherever it appears in subsection (10) and substituting in each case the word “arrested”; 5
- (m) by inserting, immediately after the words “accused of an” in subsection (10), the word “arrestable”;
- (n) by inserting, immediately after the word “his” wherever it appears in subsection (11), the words “or her”;
- (o) by inserting, immediately after the word “he” in subsection (11), the words “or she”; and 10
- (p) by deleting the word “shall” in subsection (11) and substituting the word “must”.

### **Amendment of section 36**

- 12. Section 36 of the principal Act is amended — 15
  - (a) by inserting, immediately after the words “or to surrender him”, the words “or her”;
  - (b) by deleting the words “and order his release” in paragraph (e) and substituting the words “and order his or her release”; and 20
  - (c) by deleting the words “as he thinks just” in paragraph (f) and substituting the words “as the Magistrate thinks just”.

### **Amendment of section 37**

- 13. Section 37 of the principal Act is amended —
  - (a) by deleting the words “admittance to bail” in subsection (1)(b) and substituting the words “release on bail”; 25
  - (b) by deleting the words “shall be by way” in subsection (3) and substituting the words “is to be by way”; and
  - (c) by deleting the words “shall be executed” in subsection (6) and substituting the words “must be executed”. 30

### **Amendment of section 38**

14. Section 38 of the principal Act is amended by deleting the words “him in custody, shall, unless reasonable cause is shown” and substituting the words “him or her in custody, is to, unless reasonable  
5 cause is shown”.

### **Repeal of existing Part 6 and new Parts 7, 8 and 9**

15. Part 6 of the principal Act is repealed and the following Parts substituted therefor:

#### “PART 7

#### CONVENTION OFFENCES

##### **Act may be applied to Convention State**

40.—(1) Where no extradition treaty is in force between Singapore and a Convention State that is not a declared Commonwealth territory, a notification under section 4 may  
15 be made applying this Act as if there were an extradition treaty between Singapore and that State.

(2) Where this Act is applied under subsection (1), this Act has effect in relation to that Convention State as if the only extradition offences are the Convention offences of that State.

(3) Subject to section 41, subsection (2) does not affect any other notification made under section 4.

##### **Effect of applying Act to Convention State**

41.—(1) Where a notification mentioned in section 40 is made, any limitation, condition, exception or qualification  
25 specified in —

(a) any other notification made under section 4; or

(b) in any Order in Council mentioned in section 3,

in relation to that Convention State and to the extent that it prevents the Convention offence from being considered an extradition offence in relation to that Convention State, is to be  
30 disregarded in the application of this Act in relation to that Convention State.

(2) In the application of this Act to a Convention State mentioned in section 40(1), a Convention offence —

- (a) is deemed to be an offence within the jurisdiction of that Convention State; and
- (b) is deemed not to be an offence of a political character where the written law corresponding to the Convention offence in the Fourth Schedule so provides.

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## PART 8

### EVIDENTIAL PROVISIONS

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#### **Admissibility of statements in evidence**

**42.** In any proceedings under this Act, a statement in a document is admissible in evidence if —

- (a) the statement is —
  - (i) made by a person, being a witness or victim, to a police officer or another person charged with the duty of investigating offences or charging offenders (called in this section an enforcement officer); and
  - (ii) accompanied by an affidavit of a police officer or an enforcement officer verifying the statement; or
- (b) the statement is a summary by a police officer or an enforcement officer of a statement or statements given by a person, being a witness or victim.

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#### **Overseas documents admissible in evidence if duly authenticated**

**43.—(1)** Despite anything to the contrary in the Evidence Act 1893, in any proceedings under this Act —

- (a) a document, duly authenticated, that purports to set out testimony given on oath, or declared or affirmed

30

to be true, by a person in a foreign State or declared Commonwealth territory is admissible as evidence of the matters stated in the testimony;

5 (b) a document, duly authenticated, that purports to have been received in evidence, or to be a copy of a document that has been received in evidence, in a foreign State or declared Commonwealth territory is admissible in evidence;

10 (c) a document, duly authenticated, that certifies that a person was convicted on a date specified in the document of an offence against the law of, or of a part of, a foreign State or declared Commonwealth territory is admissible as evidence of the fact and date of the conviction; and

15 (d) a document, duly authenticated, that purports to be an overseas warrant or a foreign warrant is admissible in evidence.

(2) A document is deemed to be duly authenticated for the purpose of being admitted in evidence in a proceeding under this Act if —

20 (a) in the case of a document that purports to set out testimony given on oath, declared or affirmed by a person in a foreign State or declared Commonwealth territory — the document purports to be certified by a Judge, Magistrate or officer in or of that State or territory to be the original document containing or recording that testimony or a true copy of that original document;

25 (b) in the case of a document that purports to have been received in evidence, or to be a copy of a document that has been received in evidence, in a foreign State or declared Commonwealth territory — the document purports to be certified by a Judge, Magistrate or officer in or of that State or territory to have been, or to be a true copy of a document that has been, so received in evidence;

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- (c) in the case of a document that certifies that a person has been convicted in a foreign State or declared Commonwealth territory of an offence — the document purports to be certified by a Judge, Magistrate or officer in or of that State or territory; or 5
- (d) in the case of a document that purports to be an overseas warrant or a foreign warrant — the document purports to be signed by a Judge, Magistrate or officer in or of the State or territory in which the document was issued, 10

and the certification or signature of the Judge, Magistrate or officer purports to be authenticated by the oath, declaration or affirmation of a witness, or the document purports to be sealed with the official seal of a Minister in or of that State or territory.

### **Record of case**

**44.**—(1) For the purpose of the determination of a prima facie case under section 16(8)(b)(i) —

- (a) a record of the case, whether or not its contents are admissible evidence under the law of the foreign State or declared Commonwealth territory that made the request for the surrender of the person; or 20
- (b) any other admissible evidence under the law of that foreign State or declared Commonwealth territory,

may be submitted by or on behalf of a foreign State or declared Commonwealth territory making the request, if there is in force — 25

- (c) an extradition treaty between Singapore and the foreign State governing the use of a record of the case in proceedings under section 16(8); or
- (d) an agreement or arrangement between Singapore and the declared Commonwealth territory providing for an alternative evidential mechanism in place of the requirement under section 16(8)(b)(i). 30

(2) A record of the case mentioned in subsection (1) —

(a) must contain a summary of the evidence acquired to support the request for the surrender of the person; and

5 (b) may contain any other relevant documents, including photographs or copies of documents, and documents related to the identification of the person.

(3) A record of the case mentioned in subsection (1) is admissible as evidence if it is accompanied by a certificate by a  
10 judicial or prosecuting authority of the foreign State or declared Commonwealth territory stating that the evidence summarised or contained in the record of the case —

(a) is available to be produced at the person’s trial; and

15 (b) is sufficient, under the law of the foreign State or declared Commonwealth territory, to justify prosecution of the person.

(4) Where a record of the case mentioned in subsection (1) is admissible in evidence under subsection (3), the court may in its  
20 discretion determine the weight to be given to the evidence adduced under the record of the case.

### **Application of sections 238A and 281 of the Criminal Procedure Code 2010 to court proceedings**

25 **45.**—(1) Sections 238A and 281 (except subsection (2)) of the Criminal Procedure Code 2010 apply to any matter or court proceeding under this Act with the necessary modifications as if the matter or court proceeding were the matter or court proceeding mentioned in those provisions, and a reference in those provisions —

(a) to an accused is a reference to the fugitive;

30 (b) to remand includes a reference to custody;

(c) to extension of the remand of the accused under section 238 of the Criminal Procedure Code 2010 is a reference to extension of the remand of the fugitive;

(d) to proceedings for a State Court to record a plea of guilty from the accused is a reference to proceedings where the fugitive —

(i) consents to his or her surrender; or

(ii) informs the Magistrate that he or she wishes to waive his or her right to apply for a review of an order of committal; and

(e) to a place within a court, a prison, an approved centre or an approved institution in Singapore includes any other place where the fugitive may be confined.

(2) If there is any inconsistency between the provisions of the Criminal Procedure Code 2010 mentioned in subsection (1) and any provision of this Act, the provision of this Act prevails.

### **Other modes of proving evidence not affected**

46. Nothing in this Part prevents the proof of any matter, or the admission in evidence of any document, in accordance with any other written law or rule of law in Singapore.

## **PART 9**

### **MISCELLANEOUS**

#### **Jurisdiction as to offences committed at sea or in air**

47. Where an extradition offence was committed on board any vessel on the high seas or any aircraft while in flight outside Singapore or the territorial waters of Singapore which comes into any port or airport of Singapore, the Minister or any Magistrate may exercise the powers conferred by this Act.

#### **Jurisdiction of courts**

48.—(1) Without limiting any power or jurisdiction conferred upon a District Judge by the Criminal Procedure Code 2010, a District Judge has in the exercise of his or her jurisdiction all the powers that are conferred upon and exercised by a Magistrate under this Act.

(2) Every District Judge and Magistrate has the jurisdiction to hear a case and power to commit a fugitive to custody or prison to await the fugitive's return under this Act.

### **Simultaneous requests**

5       **49.**—(1) If more than one foreign State or declared Commonwealth territory (as the case may be) makes a request for the surrender of a fugitive, the Minister may, having regard to the circumstances of the case, surrender the fugitive to any State or territory that the Minister thinks fit.

10       (2) The Minister in determining to which State or territory the fugitive should be returned must consider all the circumstances of the case and in particular —

- (a) the relative seriousness of the offences;
- (b) the relative dates on which the requests were made;
- 15           and
- (c) the citizenship or other national status of the fugitive and the fugitive's ordinary residence.

### **Delegation**

20       **50.** The Attorney-General may delegate to a public officer any of his or her powers under this Act.

### **Power to amend Schedules**

**51.**—(1) The Minister may —

- (a) from time to time, by order amend the First, Second and Fourth Schedules; and
- 25       (b) by order amend the Third Schedule when an extradition treaty between any territory and Singapore has come into force or has ceased to be in force, as the case may be.

30       (2) The Minister may, in any order made under subsection (1), make any saving or transitional provision as may be necessary or expedient.

### **Power to make rules**

**52.**—(1) The Minister may make rules to carry out the purposes of this Act.

(2) In particular, and without limiting subsection (1), those rules may provide for all or any of the following matters: 5

(a) the removal of fugitives accused or in custody or in prison under this Act and their control and maintenance until such time as they are handed over to the persons named in the warrant as entitled to receive them; 10

(b) the seizure and disposition of any property which is the subject of, or required for proof of, any alleged offence to which this Act applies;

(c) the form and manner in which or the channel through which a Magistrate may be required to make his or her report to the Minister under this Act; 15

(d) any other matter which has to be, or may be, prescribed.”.

### **Repeal and re-enactment of First Schedule**

**16.** The First Schedule to the principal Act is repealed and the following Schedule substituted therefor: 20

#### **“FIRST SCHEDULE**

Section 2(1)

#### **EXCLUDED OFFENCES**

#### **PART 1**

#### **GENERAL**

Any offence that does not fall within the definition of either “drug dealing offence” or “serious offence” in section 2(1) of the Mutual Assistance in Criminal Matters Act 2000. 25

## PART 2

## SPECIFIED EXCLUDED OFFENCES

The following offences are excluded offences even though they may fall within the definition of either “drug dealing offence” or “serious offence” in section 2(1) of the Mutual Assistance in Criminal Matters Act 2000:

	<i>Written law</i>	<i>Offence (by section or regulation/rule number)</i>	<i>Description</i>
5			
10	1. Building Maintenance and Strata Management Act 2004	120(2)	Contravention of order made under Part 6 of the Building Maintenance and Strata Management Act 2004 or the Land Titles (Strata) Act 1967
15	2. Carbon Pricing Act 2018	56(5)	Offences relating to submissions of verified emissions reports
20	3. Central Provident Fund Act 1953	7(3)	Failure of an employer to pay any amount which the employer had recovered from an employee’s monthly wages in accordance with section 7(2) of the Central Provident Fund Act 1953 into the Central Provident Fund within the prescribed time
25			
30	4. Chemical Weapons (Prohibition) Act 2000	9(1) p/u 9(12) 9(2), (3) or (4) p/u 9(13)	Offences relating to the use, development, production, acquisition, stockpile, retention or transfer of scheduled chemical, or discrete organic chemical without a licence or not in accordance with the conditions of a licence
35			
40			

5. Control of Plants Act 1993	7(1) p/u 7(4)	Prohibition of import or transshipment of fresh fruits or vegetables without licence	
	8(1) or (2) p/u 8(3)	Prohibition of import or transshipment of fresh fruits or vegetables without permit	5
	34(b) for failure to comply with order under section 28	Export of plants contrary to order by Minister	10
	34(a) for contravention of section 41	Failure to give access to documents, etc.	15
6. Control of Plants (Plant Importation) Rules (R 4)	5(1) p/u 17	Importation of regulated plant, etc., without a permit	
7. Copyright Act 2021	448 p/u 452(1)	Distribution, etc., of an article which the person knows or ought reasonably to know is an infringing copy of a copyrighted work	20
	450 p/u 452(2)	Causing a literary, dramatic or musical work to be performed in public, or causing a film to be seen or heard or seen and heard in public, other than by the reception of a television broadcast or cable programme, for private profit, where the person knows or ought reasonably to know that the act is an infringement of copyright	25
			30
			35
			40

	8. Environmental Protection and Management Act 1999	22(3) p/u 27	General prohibition with respect to importation, manufacture and sale of hazardous substances
5		23(3) p/u 27	Prohibitions and regulations with respect to importation, manufacture and sale of hazardous substances
10		24(3) p/u 27	Storage, use and dealing of hazardous substances
	9. Estate Agents Act 2010	28(2)	Carrying on the business of doing estate agency work as an estate agent, etc., by person who is not a licensed estate agent
15		64(1)	Making a false statement in relation to an application under the Estate Agents Act 2010, etc.
20			
	10. Geographical Indications Act 2014	24	Falsification of register or production of false evidence
25			
	11. Hazardous Waste (Control of Export, Import and Transit) Act 1997	25(4)	Prohibition of import of hazardous waste without permit, etc.
30		26(3)	Prohibition of export of hazardous waste without permit, etc.
		27(3)	Bringing waste into Singapore in course of carrying out transit proposal without permit, etc.
35			



12. Housing Developers (Control and Licensing) Act 1965	4(8)	Carrying out or undertaking housing development without a written licence from the Controller of Housing	5
13. Human Biomedical Research Act 2015	22(1) p/u 22(6)	Conduct of human biomedical research not under the supervision and control of a research institution with the prescribed requirements	10
	22(2) p/u 22(6)	Conduct of any human biomedical research without compliance with the prescribed requirements	15
	22(3) p/u 22(6)	Breach of obligations of a researcher	
	22(4) p/u 22(6)	Breach of obligation of a researcher to ensure that a minor lacking sufficient understanding or intelligence, or an adult or a minor who lacks mental capacity to give consent, is not a research subject in any biomedical research unless the exceptions apply	20
			25

5	23(1)(c) p/u 23(7)	Failure of a research institution to ensure that there is in force an approval for the human biomedical research under section 17(1) of the Human Biomedical Research Act 2015 issued by an institutional review board which the research institution had appointed or is an exemption under section 17(2) of that Act of the requirement for that research to be approved by the institutional review board appointed by the research institution	
10			
15			
20	14. Income Tax Act 1947	37M(3)	Provision of false information resulting in payment under section 37G or 37H of the Income Tax Act 1947
25		37M(4)	Preparation or maintenance of false accounts or records, or use of fraud, resulting in payment under section 37G or 37H of the Income Tax Act 1947
30			
35	15. National Registration Act 1965	16(1), (2) or (3)	Offences in relation to identity cards
	16. Plant Varieties Protection Act 2004	44	Falsification of register or production of false evidence

17. Private Lotteries Act 2011	20(3)	Offences of non-compliance with section 12 of the Private Lotteries Act 2011, etc.	
	21(1)(a)	Penalty for promoting private lottery without permit, etc.	5
18. Public Utilities Act 2001	41(1) p/u 41(2)	Supply of piped water suitable for drinking without the Public Utilities Board's written approval	10
19. Radiation Protection Act 2007	6(1) p/u 6(2)	Control of import, export, etc., of radioactive materials	15
	7(1) p/u 7(5)	Control of import, export, etc., of irradiating apparatus	
20. Registered Designs Act 2000	65	Falsification of register or production of false evidence	20
21. Registration of Deeds Act 1988	26	Wilful misconduct by the Registrar of Deeds or person employed under the Registrar of Deeds for the Registration of Deeds Act 1988	25
22. Trade Marks Act 1998	50	Falsification of register or production of false evidence	30
	52(1) or (2) p/u 52(3)	Representation on trade marks of the Arms or Flag of Singapore, etc.	

	23. Wholesome Meat and Fish Act 1999	5(1) p/u 5(2)	Prohibition of import, export or transshipment of meat products or fish products without licence
5		6(1), (2) or (3) p/u 6(4)	Prohibition of import, export or transshipment of meat products or fish products without permit
10	24. Wildlife Act 1965	8(1) or (2) p/u 8(3)(a)	Sale or export of wildlife

### PART 3

Aiding, abetting, counselling or procuring the commission of, or being an accessory before or after the fact to, or attempting or conspiring to commit, any of the offences listed in Part 2.”

### 15 **Amendment of Second Schedule**

**17.** The Second Schedule to the principal Act is amended —

- (a) by deleting the words “Sections 9, 23 and 43” in the Form reference of Forms 1 and 2 and substituting in each case the words “Sections 11 and 51”;
- 20 (b) by deleting the word “requisition” wherever it appears in Forms 1 and 2 and substituting in each case the word “request”;
- 25 (c) by deleting the words “declared Commonwealth country” in Forms 1 and 2 and substituting in each case the words “declared Commonwealth territory”;
- (d) by deleting the words “his way to Singapore” in Forms 1, 3 and 4 and substituting in each case the words “his/her way to Singapore”;

- (e) by deleting the words “Sections 10, 24 and 43” in the Form reference of Forms 3 and 4 and substituting in each case the words “Sections 12 and 51”;
- (f) by deleting the words “members of the Singapore Police Force” wherever they appear in Forms 3, 4, 5, 7 and 8 and substituting in each case the words “authorised officers”; 5
- (g) by deleting the words “a requisition has been made to him” in Form 3 and substituting the words “a request has been made to the Minister”;
- (h) by deleting the words “having found him, to apprehend him and, if he is apprehended, to bring him before any District Judge or Magistrate to show cause why he should not be surrendered” in Form 3 and substituting the words “having found him/her, to apprehend him/her and, if he/she is apprehended, to bring him/her before any District Judge or Magistrate to show cause why he/she should not be surrendered”; 10 15
- (i) by deleting the words “having found him, to apprehend him and, if he is apprehended, to bring him” in Form 4 and substituting the words “having found him/her, to apprehend him/her and, if he/she is apprehended, to bring him/her”; 20
- (j) by deleting the words “Sections 11, 25 and 43” in the Form reference of Form 5 and substituting the words “Sections 16, 19, 21 and 51”; 25
- (k) by deleting the words “to show cause why he should not be surrendered in pursuance of the Extradition Act 1968 on the ground of his being accused” in Form 5 and substituting the words “to show cause why he/she should not be surrendered pursuant to the Extradition Act 1968 on the ground of his/her being accused”; 30

- (*l*) by deleting the words “deliver him there” in paragraph (*a*) of Form 5 and substituting the words “deliver him/her there”;
- 5 (*m*) by deleting the words “safely to keep him until he is delivered” in paragraph (*b*) of Form 5 and substituting the words “safely to keep him/her until he/she is delivered”;
- (*n*) by deleting the words “Sections 12, 27 and 43” in the Form reference of Form 6 and substituting the words “Sections 19 and 51”;
- 10 (*o*) by deleting the word “him” wherever it appears in paragraph (*b*) of Form 6 and substituting in each case the words “him/her”;
- (*p*) by deleting “43” in the Form reference of Forms 7, 8 and 9 and substituting in each case “51”;
- 15 (*q*) by deleting the words “having found him, to apprehend him and, if he is apprehended to bring him” in Forms 7 and 8 and substituting in each case the words “having found him/her, to apprehend him/her and, if he/she is apprehended to bring him/her”;
- 20 (*r*) by deleting the words “his apprehension” in Form 9 and substituting the words “his/her apprehension”; and
- (*s*) by inserting, immediately after Form 9, the following Forms:

“FORM 10

Sections 17 and 51

EXTRADITION ACT 1968

NOTICE OF APPLICATION FOR REVIEW OF  
DISTRICT JUDGE’S [*or* MAGISTRATE’S] ORDER

5

State Court No.

Case No.

Between

[*Name of Applicant*] ... Applicant

And

[*Name of Respondent*] ... Respondent

10

To:

The Honourable the Justices  
of the General Division of the High Court of the  
Republic of Singapore.

15

NOTICE OF APPLICATION FOR REVIEW OF  
DISTRICT JUDGE’S [*or* MAGISTRATE’S] ORDER

Take Notice that the abovenamed applicant, being dissatisfied with the order [of (*mention the order*)] made by the District Judge [*or* Magistrate] in Court No.            of the State Courts on the    day of    20    , applies for a review of the said order in the abovementioned case.

20

Dated this    day of    20

(*Signature*)

*Applicant*

## FORM 11

Sections 17 and 51

## EXTRADITION ACT 1968

APPLICATION FOR REVIEW OF  
DISTRICT JUDGE'S [*or* MAGISTRATE'S] ORDER

State Court No.

Case No.

Between  
 [*Name of Applicant*] ... Applicant  
 And  
 [*Name of Respondent*] ... Respondent

To:

The Honourable the Justices  
 of the General Division of the High Court of the  
 Republic of Singapore.

APPLICATION FOR REVIEW OF  
DISTRICT JUDGE'S [*or* MAGISTRATE'S] ORDER

The application of *A.B.*

Shows as follows:

1. \*Your Applicant, the abovenamed *A.B.* was ordered to be [surrendered to  
 (*mention the foreign State or declared Commonwealth territory*)] [*or* released] at  
 Court No.      of the State Courts at Singapore on the      day of      20      .

2. Your Applicant is dissatisfied with the said order on the grounds  
 following:

(*Here state the particular grounds of fact or law or mixed fact and law  
 on which the applicant relies*).

3. Your Applicant prays that such order may be reversed or annulled or that  
 such order may be made thereon as justice may require.

Dated this      day of      20

(Signature)

*Applicant*

\*If the application is brought by the Attorney-General, omit the words "Your Applicant" in paragraph 1.



FORM 12

Sections 18 and 51

EXTRADITION ACT 1968  
NOTICE OF CRIMINAL MOTION

Criminal Motion No. \_\_\_\_\_ of 20\_\_ 5

IN THE MATTER OF \_\_\_\_\_

And

IN THE MATTER OF  
SECTION 18 OF  
THE EXTRADITION ACT 1968 10

Between

[Name of Applicant] ... Applicant

And

[Name of Respondent] ... Respondent

NOTICE OF CRIMINAL MOTION 15

TAKE NOTICE that this Honourable Court will be moved on the \_\_\_ day  
of \_\_\_\_\_ 20\_\_ at \_\_\_\_\_ a.m./p.m. or soon thereafter for [the Applicant to  
be heard in person/counsel for the Applicant to be heard] for an Order that:

\_\_\_\_\_  
\_\_\_\_\_ 20

The grounds for the application are set out in the supporting affidavit  
of \_\_\_\_\_ dated \_\_\_\_\_ filed herein.

Dated this      day of      20

(Signature)  
Applicant /  
Solicitors for the Applicant". 25

## New Fourth Schedule

18. The principal Act is amended by inserting, immediately after the Third Schedule, the following Schedule:

### “FOURTH SCHEDULE

5

Sections 2(1) and 40

#### EXTRADITION OFFENCES UNDER MULTILATERAL CONVENTIONS

<i>Written law</i>	<i>Extradition offences</i>
10 1. Hijacking of Aircraft and Protection of Aircraft and International Airports Act 1978	Any offence under the Hijacking of Aircraft and Protection of Aircraft and International Airports Act 1978 or any attempt to commit any offence under that Act
15 2. Hostage-Taking Act 2010	Any hostage-taking offence as defined in section 2 of the Hostage-Taking Act 2010
20 3. Internationally Protected Persons Act 2008	Any offence against an internationally protected person as defined in section 2 of the Internationally Protected Persons Act 2008
25 4. Maritime Offences Act 2003	Any relevant maritime offence or relevant fixed platform offence as defined in section 2 of the Maritime Offences Act 2003
30 5. Radiation Protection Act 2007	(a) Any nuclear offence or nuclear trafficking offence as defined in section 2(1) of the Radiation Protection Act 2007  (b) Any relevant offence as defined in section 39(9) of that Act
35 6. Terrorism (Suppression of Bombings) Act 2007	Any terrorist bombing offence as defined in section 2 of the Terrorism (Suppression of Bombings) Act 2007

- |   |   |    |
|---|---|----|
| 7. Terrorism (Suppression of Financing) Act 2002                      | Any terrorism financing offence as defined in section 2(1) of the Terrorism (Suppression of Financing) Act 2002                 |    |
| 8. Terrorism (Suppression of Misuse of Radioactive Material) Act 2017 | Any nuclear terrorism offence as defined in section 2 of the Terrorism (Suppression of Misuse of Radioactive Material) Act 2017 | 5  |
| 9. United Nations Personnel Act 2011                                  | (a) Any offence against a UN worker as defined in section 2(1) of the United Nations Personnel Act 2011                         | 10 |
|   | (b) Any relevant offence as defined in section 11(9) of that Act  | 15 |
|   | (c) Any relevant offence as defined in section 12(8) of that Act”.  |    |

**Consequential and related amendments to Criminal Procedure Code 2010** 20

19. The Criminal Procedure Code 2010 is amended —

- (a) by deleting the words “section 10, 24 or 34” in section 95(1)(c) and substituting the words “section 12 or 34”; 25
- (b) by deleting paragraph (a) of section 417(1); and
- (c) by deleting subsection (2) of section 417.

**Consequential and related amendments to Hijacking of Aircraft and Protection of Aircraft and International Airports Act 1978** 30

20.—(1) Section 11 of the Hijacking of Aircraft and Protection of Aircraft and International Airports Act 1978 is amended —

- (a) by deleting subsection (1) and substituting the following subsection:

“(1) Any offence under this Act, or any attempt to commit any such offence, is deemed to be an extradition offence under the Extradition Act 1968.”; and

5 (b) by deleting the words “extradition crimes” in subsection (2)(b) and substituting the words “extradition offences”.

(2) Section 11 of the Hijacking of Aircraft and Protection of Aircraft and International Airports Act 1978 is amended —

10 (a) by deleting subsection (1) and substituting the following subsection:

“(1) Every relevant offence is deemed to be an extradition offence under the Extradition Act 1968.”; and

15 (b) by deleting the words “extradition crimes” in subsection (2)(b) and substituting the words “extradition offences”.

### **Consequential and related amendments to Hostage-Taking Act 2010**

20 **21.** Section 14 of the Hostage-Taking Act 2010 is amended —

(a) by deleting subsection (1) and substituting the following subsection:

25 “(1) Every hostage-taking offence is deemed to be an extradition offence under the Extradition Act 1968.”;

(b) by deleting the words “extradition crimes” in subsection (3) and substituting the words “extradition offences”; and

30 (c) by deleting the words “extradition crime” in subsection (6) and substituting the words “extradition offence”.

## **Consequential amendments to Internationally Protected Persons Act 2008**

**22.** Section 11 of the Internationally Protected Persons Act 2008 is amended —

- (a) by deleting the words “extraditable crimes” in subsection (1) and substituting the words “extradition offences”; 5
- (b) by deleting the words “Parts 3 and 4” in subsection (1) and substituting the words “Parts 3, 4 and 5”;
- (c) by deleting the words “extradition crime” in subsections (2) and (7) and substituting in each case the words “extradition offence”; 10
- (d) by deleting the words “declared Commonwealth country” in subsections (2), (3), (8)(a)(i) and (ii) and (9) and substituting in each case the words “declared Commonwealth territory”; and 15
- (e) by deleting the words “extradition crimes” in subsection (4) and substituting the words “extradition offences”.

## **Consequential and related amendments to Maritime Offences Act 2003** 20

**23.** Section 15 of the Maritime Offences Act 2003 is amended —

- (a) by deleting subsection (1) and substituting the following subsection: 25
  - “(1) Every relevant maritime offence and every relevant fixed platform offence are deemed to be extradition offences under the Extradition Act 1968.”; and
- (b) by deleting the words “extradition crimes” in subsections (2)(b) and (3)(b) and substituting in each case the words “extradition offences”. 30

## **Consequential amendments to Radiation Protection Act 2007**

**24.** Section 39 of the Radiation Protection Act 2007 is amended —

(a) by deleting the words “extraditable crimes” in subsection (1) and substituting the words “extradition offences”;

(b) by deleting the words “Parts 3 and 4” in subsection (1) and substituting the words “Parts 3, 4 and 5”;

(c) by deleting the words “extradition crime” in subsections (2) and (7) and substituting in each case the words “extradition offence”;

(d) by deleting the words “declared Commonwealth country” in subsections (2), (3), (8)(a)(i) and (ii) and (9) and substituting in each case the words “declared Commonwealth territory”; and

(e) by deleting the words “extradition crimes” in subsection (4) and substituting the words “extradition offences”.

## **Consequential and related amendments to Supreme Court of Judicature Act 1969**

**25.** The Supreme Court of Judicature Act 1969 is amended —

(a) by inserting, immediately after paragraph (b) of section 19, the following paragraph:

“(ba) the hearing of reviews of the orders of District Courts or Magistrates’ Courts in extradition proceedings;” and

(b) by deleting the full-stop at the end of paragraph (f) of section 60D and substituting a semi-colon, and by inserting immediately thereafter the following paragraph:

“(g) any reference to the Court of Appeal under section 18 of the Extradition Act 1968.”.

**Consequential and related amendments to Terrorism  
(Suppression of Bombings) Act 2007**

26. Section 6 of the Terrorism (Suppression of Bombings) Act 2007 is amended —

- (a) by deleting subsection (1) and substituting the following subsection: 5
  - “(1) Every terrorism bombing offence is deemed to be an extradition offence under the Extradition Act 1968.”;
- (b) by deleting the words “extradition crimes” in subsection (3) and substituting the words “extradition offences”; and 10
- (c) by deleting the words “extradition crime” in subsection (6) and substituting the words “extradition offence”.

**Consequential and related amendments to Terrorism  
(Suppression of Financing) Act 2002** 15

27. Section 33 of the Terrorism (Suppression of Financing) Act 2002 is amended —

- (a) by deleting subsection (1) and substituting the following subsection: 20
  - “(1) Every terrorism financing offence is deemed to be an extradition offence under the Extradition Act 1968.”;
- (b) by deleting the words “extradition crimes” in subsection (3) and substituting the words “extradition offences”; and 25
- (c) by deleting the words “extradition crime” in subsection (6) and substituting the words “extradition offence”.

**Consequential amendments to Terrorism (Suppression of  
Misuse of Radioactive Material) Act 2017** 30

28. Section 13 of the Terrorism (Suppression of Misuse of Radioactive Material) Act 2017 is amended —

- (a) by deleting the words “extraditable crime” in subsection (1) and substituting the words “extradition offence”;
- 5 (b) by deleting the words “Parts 3 and 4” in subsection (1) and substituting the words “Parts 3, 4 and 5”;
- (c) by deleting the words “extradition crime” in subsections (2) and (6) and substituting in each case the words “extradition offence”;
- 10 (d) by deleting the words “declared Commonwealth country” in subsections (2), (3), (7)(a) and (b) and (8) and substituting in each case the words “declared Commonwealth territory”; and
- 15 (e) by deleting the words “extradition crimes” in subsection (3)(b) and substituting the words “extradition offences”.

### **Consequential amendments to United Nations Personnel Act 2011**

**29.** The United Nations Personnel Act 2011 is amended —

- 20 (a) by deleting the words “extraditable crimes” in section 11(1) and substituting the words “extradition offences”;
- (b) by deleting the words “Parts 3 and 4” in section 11(1) and substituting the words “Parts 3, 4 and 5”;
- 25 (c) by deleting the words “extradition crime” in section 11(2) and (7) and substituting in each case the words “extradition offence”;
- 30 (d) by deleting the words “declared Commonwealth country” in section 11(2), (3), (8)(a)(i) and (ii) and (9) and substituting in each case the words “declared Commonwealth territory”;
- (e) by deleting the words “extradition crimes” in section 11(4) and substituting the words “extradition offences”;



- (f) by deleting the words “extradition crime” in section 12(1) and (6) and substituting in each case the words “extradition offence”;
- (g) by deleting the words “declared Commonwealth country” in section 12(1), (2), (7)(a)(i) and (ii) and (8) and substituting in each case the words “declared Commonwealth territory”; and
- (h) by deleting the words “extradition crimes” in section 12(3) and substituting the words “extradition offences”.

### **Saving and transitional provisions**

**30.**—(1) The principal Act and the Acts mentioned in sections 19 to 29, as in force immediately before the date of commencement of those sections, continue to apply to any proceeding commenced before the date of commencement of those sections, and those proceedings may be continued and everything in relation thereto may be done in all respects after that date as if this Act had not been enacted.

(2) Despite sections 5 and 6, where a request for surrender is received before the date of commencement of those sections, by Singapore from a foreign State with which Singapore has an extradition treaty in force, any restriction on surrender not contained —

- (a) in that extradition treaty; or
- (b) in the principal Act as in force immediately before the date of commencement of those sections,

does not apply to the request for surrender made under that extradition treaty.

(3) Any declaration made under section 19 of the principal Act as in force immediately before the date of commencement of section 6 continues to be in force as if it were made under section 6(1) of the principal Act as amended by this Act, until it is revoked.

(4) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such additional provisions of a saving or transitional nature consequent on

the enactment of that provision as the Minister may consider necessary or expedient.

5 (5) For the purposes of this section, proceedings are commenced when a fugitive is brought before the Magistrate under section 11(1), 25(1) or 35(1) (as the case may be) of the principal Act as in force immediately before the date of commencement of this Act.

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## EXPLANATORY STATEMENT

This Bill seeks to amend the Extradition Act 1968 (the Act) to modernise Singapore's statutory extradition regime in alignment with other leading common law jurisdictions. The key changes to Singapore's extradition regime are —

- (a) updating the criteria for determining extradition offences and expanding the categories of restrictions on surrender of persons;
- (b) updating evidential procedures for extradition proceedings;
- (c) centralising review procedures for extradition proceedings under the Act;
- (d) introducing a mechanism for a fugitive to consent to his or her extradition;
- (e) collating extradition offences arising from Singapore's obligations under multilateral conventions; and
- (f) streamlining the provisions on extradition requests for foreign States and declared Commonwealth territories.

Under the modernised extradition regime, the determination of whether an offence is extraditable now uses a threshold approach, i.e. an offence is extraditable if it attracts a maximum punishment of not less than 2 years or any more severe punishment, subject to a list of excluded offences. This approach, which departs from the existing list approach (where only offences on a list were extraditable), brings Singapore in line with jurisdictions such as Australia, Canada, Malaysia and the United Kingdom, and also provides more clarity and flexibility regarding the scope of what is extraditable.

The Bill also makes consequential and related amendments to certain other Acts.

## PART 1

## PRELIMINARY

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 to introduce new definitions and amend existing definitions to support other amendments in the Bill. The definition of “authorised officer” is added to empower certain classes of persons to carry out certain functions in the Act, including enforcement.

The definition of “extradition offence” replaces the existing definition of “extradition crime” and sets out the updated criteria for determining if an offence is extraditable. The existing list approach where extraditable offences were listed in the First Schedule has been replaced by a threshold approach, where an offence is extraditable if —

- (a) in the case of an extradition request made by Singapore, it meets the threshold of a maximum punishment of imprisonment for not less than 2 years or any more severe punishment under Singapore law, and is not an excluded offence;
- (b) in the case of an extradition request made to Singapore, it meets the threshold of a maximum punishment of imprisonment for not less than 2 years or any more severe punishment under both the laws of Singapore and the state or territory making the request, and is not an excluded offence; or
- (c) in either case, the offence is deemed to be an extradition offence, such as Convention offences that are extraditable under Singapore’s multilateral treaty obligations.

## PART 2

## APPLICATION OF ACT

Clause 3 amends the heading of Part 2 as Part 2 now deals with the application of the Act.

Clause 4 amends sections 3, 4 and 5 to provide that the Act (except for Parts 5 and 6) applies to foreign States to which Extradition Acts 1870 to 1935 applied, and can be applied in relation to a foreign State by way of *Gazette* notification subject to certain prescribed limitations, conditions, exceptions or qualifications.

Clause 5 repeals the existing section 6 and inserts a new section 6. The new section 6 moves the existing section 19 into Part 2, as Part 2 now deals with general application of the Act. The Act (except for Part 6) will apply to a state or territory that the Minister declares to be a Commonwealth territory, subject to certain prescribed limitations, conditions, exceptions or qualifications.

Clause 6 repeals sections 7 to 13 and Parts 3 and 4 and substitutes the new Parts 3, 4 and 5, which cover sections 7 to 30.

### PART 3 EXTRADITION FROM SINGAPORE

The new Part 3 deals with the process of extradition of persons from Singapore.

The new section 7 combines the existing sections 6 and 20 to set out when a fugitive is liable to be surrendered. In the case of a foreign State, a fugitive is liable to be apprehended and surrendered subject to Part 3 and any limitations, conditions, exceptions or qualifications applicable to that foreign State. In the case of a declared Commonwealth territory, a fugitive is liable to be apprehended and surrendered subject to Parts 3 and 5 and any limitations, conditions, exceptions or qualifications applicable to that territory.

The new section 8 sets out the updated restrictions on surrender of persons to foreign States. The new restrictions added are convictions obtained in the fugitive's absence, offences barred by time, military offences that are not also offences under the ordinary criminal law of Singapore, and situations where the fugitive's remaining term of imprisonment is minimal.

A fugitive is not liable to be surrendered to a foreign State in any of the following circumstances:

- (a) the offence for which the person is to be surrendered is an offence of a political character, or is an offence of a political character by reason of the circumstances in which it was allegedly committed;
- (b) there is no provision guarding against prosecution of the person or re-surrender of the person to another country for offences other than the offence for which he or she is surrendered;
- (c) the person is in custody or on bail, or is serving sentence in Singapore;
- (d) the person has been acquitted or punished for the offence;
- (e) the person's conviction in the foreign State was obtained in his or her absence, unless he or she had deliberately absented himself or herself from the trial, or unless he or she would be given a proper retrial upon surrender;
- (f) the request is barred by time;
- (g) the offence for which the person is to be surrendered is a military offence that is not also an offence under the ordinary criminal law of Singapore.

In addition, the Minister may determine that a person is not to be surrendered to the requesting foreign State, if the person's remaining term of imprisonment (or

other deprivation of liberty) is shorter than the period specified as being a minimal period according to the extradition treaty between Singapore and that foreign State, or is less than 6 months, if no such period is specified.

The new restriction against surrendering a person who was convicted in the foreign State in his or her absence is to guard against a breach of natural justice, since the person would not have been able to contest the allegations against him or her. This restriction would not apply if the person had deliberately absented himself or herself from the proceedings, or would be given a retrial in his or her presence after surrender. In such cases, the person would have had, or will be given, an opportunity to be heard in court.

The new restriction against surrendering a person whose prosecution in the foreign State is barred due to the lapse of time ensures effective allocation of resources in Singapore, since in such a case the foreign State might not be able to successfully prosecute the person even if he or she were successfully extradited.

The new restriction against surrendering a person whose offence is only punishable under military law is consistent with the rationale of combating common criminality, and not matters of discipline within a state's military organisation.

The new restriction against surrendering a person whose remaining sentence is minimal is aimed at an efficient use of resources. The amount of resources used in an extradition proceeding would be disproportionate to the result if the term of imprisonment is minimal. As there may be situations where surrender of the person is nevertheless warranted, this restriction is subject to the Minister's discretion.

The new section 9 sets out the updated restrictions on surrender of persons to declared Commonwealth territories. A person is not liable to be surrendered to a declared Commonwealth territory in any of the following circumstances:

- (a) the offence for which the person is to be surrendered is an offence of a political character, or is an offence of a political character by reason of the circumstances in which it was allegedly committed;
- (b) there is no provision guarding against prosecution of the person or re-surrender of the person to another country for offences other than the offence for which he or she is surrendered, unless the Minister gives his or her consent;
- (c) the person is in custody or on bail, or is serving sentence in Singapore;
- (d) the person has been acquitted or punished for the offence;
- (e) the offence for which the person is to be surrendered is a military offence that is not also an offence under the ordinary criminal law of Singapore.

The new section 10 combines the existing sections 8 and 22 to set out the restrictions on the Minister's power to authorise the apprehension or order the surrender of a fugitive. The grounds of sex and ethnic origin have been added as grounds on which the Minister may consider the fugitive may be persecuted. This brings the Act in line with the Mutual Assistance in Criminal Matters Act 2000, which allows for a legal assistance request to be refused on similar grounds, and also aligns Singapore's position with the United Nations Convention Against Corruption and the United Nations Convention against Transnational Organized Crime. The Minister may also refuse extradition requests due to factors such as the trivial nature of the offence, the accusation against the fugitive being made in bad faith, the passage of time since the commission of the offence, or any other sufficient cause.

The new section 11 combines the existing sections 9 and 23. There is no change in substance from the existing provisions. Where a foreign State or declared Commonwealth territory makes a request for the surrender of a fugitive in Singapore, the Minister may by notice inform a Magistrate of the request. But the Minister must not issue the notice if the Minister is of the opinion that the fugitive is not liable to be surrendered.

The new section 12 combines the existing sections 10 and 24. There is no change in substance from the existing provisions. Where a Magistrate is authorised by the Minister or has received an application to issue a warrant for the apprehension of a fugitive, the Magistrate is empowered to issue such a warrant. There must however be evidence produced to the Magistrate that would justify the apprehension of the fugitive if the act or omission constituting the extradition offence had taken place in Singapore. When the Magistrate issues a warrant without the Minister's prior authorisation, the Magistrate must send the Minister a report of the issuance of the warrant, and the evidence produced in support of it. The Minister may cancel the warrant if the Minister thinks fit, whereupon the person concerned must be released or his or her bail bond be discharged.

The new section 13 enables any authorised officer to execute a warrant for the apprehension of a fugitive.

The new section 14 specifies that the bail and bond provisions under the Criminal Procedure Code 2010 (CPC) apply with certain modifications to persons released on bail or bond under the Act. All extradition offences are deemed to be non-bailable offences.

The new section 15 enables any authorised officer who is executing a warrant relating to an extradition request to conduct searches and seize any thing in the possession or under the control of the fugitive that may be material in proving the offence, or is the result of the offence. This power continues after the fugitive's arrest, up till the fugitive is surrendered. In order to limit the scope of what may be seized, the requesting party must identify or describe the things to be seized.

The new section 16 combines the existing sections 11 and 25. There is no change in substance from the existing provisions. After a fugitive is apprehended, he or she must be brought before a Magistrate, who may remand the fugitive in custody or on bail for a period or periods not exceeding 7 days at any one time. On each occasion the fugitive is brought before the Magistrate, the Magistrate is to ascertain if the fugitive consents to his or her extradition, and if the fugitive consents, the new section 21 applies. Where the fugitive is apprehended under a warrant but without a notice having been issued by the Minister, the Magistrate is to remand the fugitive until the Minister's notice is received. If this notice is not received within a reasonable time, the Magistrate is to order that the fugitive be released or his or her bail bond be discharged. Where the Magistrate is authorised or notified by the Minister regarding the apprehension of the fugitive, subsection (8) sets out the requirements for the Magistrate to commit the fugitive to prison to await surrender. Where the Magistrate is of the opinion that the fugitive's safety or health would be endangered in prison, the Magistrate may order that the fugitive be held in another place until the fugitive can be safely imprisoned or surrendered.

The new section 17 consolidates the applicable procedures for a review of a Magistrate's order. After a Magistrate has made an order, whether for the committal to prison or release of the fugitive, either the fugitive or the Attorney-General may apply for a review of the order by the General Division of the High Court (High Court) on a question of fact or a question of law or on a question of mixed fact and law. This review does not require permission of the court. The High Court may make any order or direction as it thinks fit upon the review, and the High Court's decision is final.

The party seeking a review must file a notice with the Registrar of the State Courts not later than 15 days after the order is made, and this notice operates as a stay of the order until the expiry of 15 days after the order was made or the conclusion of the proceedings in the High Court (whichever is later). This notice must be served on the other party. Where notice of application for review is filed, the Magistrate must transmit to the High Court the record of the case and all affidavits, statements, documents and exhibits, notes of evidence, and grounds of decision for the order, as well as the Magistrate's finding on any question of law or fact or mixed law and fact that arose during the proceedings. The party seeking to have the order reviewed must, not later than 14 days after receiving the record of the case and all affidavits, statements, documents and exhibits, notes of evidence, grounds of decision and any Magistrate's finding from the State Courts, submit an application for review.

The new section 17 also makes it clear that the order for review of detention provision (also previously known as an order for "habeas corpus") under the CPC no longer applies for extradition proceedings, as the review procedure has been consolidated under the Extradition Act 1968.

The new section 18 allows parties to refer a question of law of public interest which arose during a review by the High Court under the new section 17, to the Court of Appeal. This procedure is similar to the criminal reference provision under section 397 of the CPC. In order to bring such a question of law of public interest to the Court of Appeal, the fugitive requires permission from the Court of Appeal, but the Attorney-General does not require permission.

The new section 19 combines the existing sections 12 and 27, which cover the procedure for the surrender of a fugitive. A new procedure has also been added allowing the fugitive to waive his or her right to apply for a review of the Magistrate's order. If the fugitive opts to waive this right, the Magistrate must ascertain that the fugitive gave this consent voluntarily, and explain to the fugitive the consequences of waiving the right. The Magistrate, after confirming the fugitive's consent and understanding, must record down the fugitive's consent to the waiver and commit him or her to prison to await surrender. Where the Magistrate is of the opinion that the fugitive's safety or health would be endangered in prison, the Magistrate may order that the fugitive be held in another place until the fugitive can be safely imprisoned or surrendered. The Minister may issue the surrender warrant if the Minister is satisfied that the fugitive is to be surrendered.

The new section 20 sets out the court's powers relating to property in the possession of the fugitive at the time of apprehension. Any property that was not delivered up with the fugitive on surrender can be disposed of by a Magistrate's order.

The new section 21 provides a new mechanism for a fugitive to consent to his or her extradition and waive extradition proceedings. This mechanism aims to save state resources and prevent the fugitive from being unnecessarily detained in Singapore. A fugitive who has been apprehended may inform a Magistrate that he or she consents to be surrendered. The Magistrate must ascertain that the fugitive's consent is voluntary, and inform the fugitive of the consequences of consent, chiefly that the fugitive will be committed to prison without extradition proceedings in court and will be extradited to be tried. The Magistrate, after confirming the fugitive's consent and understanding, must record down the fugitive's consent to the waiver and, if the Magistrate has received the Minister's notice or an authenticated warrant, must commit the fugitive to prison to await the surrender warrant. Where the Magistrate is of the opinion that the fugitive's safety or health would be endangered in prison, the Magistrate may order that the fugitive be held in another place until the fugitive can be safely imprisoned or surrendered. The Minister must consider the restrictions on surrender to determine if the fugitive should be surrendered. The fugitive is to be surrendered as soon as practicable.

The new section 22 combines the existing sections 13 and 28. There is no change in substance from the existing provisions. Where a fugitive is still in prison



or custody in Singapore 2 months after the date of the committal to prison or custody, or the date that his or her proceedings are finally determined, the fugitive may apply to the High Court to be released.

## PART 4

### EXTRADITION TO SINGAPORE

The new Part 4 deals with the process of extradition of persons to Singapore.

The new section 23 specifies that extradition to Singapore is governed by Part 4 for both foreign States and declared Commonwealth territories, except that Part 5 also applies for declared Commonwealth territories.

The new section 24 combines the existing sections 15 and 29. There is no change in substance from the existing provisions. Where a person accused or convicted of an extradition offence is or is suspected of being within the jurisdiction of or on the way to a foreign State or declared Commonwealth territory, the Minister may make a request for the person to be surrendered to Singapore.

The new section 25 combines the existing sections 16 and 30. There is no change in substance from the existing provisions. A person accused or convicted of an extradition offence, who is surrendered to Singapore, may be brought to Singapore by any authorised officer and delivered to the proper authorities to be dealt with.

The new section 26 combines the existing sections 17 and 31. There is no change in substance from the existing provisions. A person accused or convicted of an extradition offence who is surrendered to Singapore must not be prosecuted or detained for other offences, or surrendered to another country to be prosecuted for other offences. Certain exceptions are set out in the section.

## PART 5

### ADDITIONAL PROVISIONS IN RELATION TO DECLARED COMMONWEALTH TERRITORIES

The new Part 5 covers additional provisions that apply where the other jurisdiction involved in the extradition of a fugitive is a declared Commonwealth territory.

The new section 27 states that subject to Part 5, extradition from Singapore to a declared Commonwealth territory is governed by Part 3, and extradition to Singapore from a declared Commonwealth territory is governed by Part 4.

The new section 28 imposes additional restrictions on surrender of persons to declared Commonwealth territories. An offence is not an offence of a political character where it is an offence against the life or person of a political figure or a

member of the political figure's immediate family, or murder. However, the Minister can restrict the application of these categories of offences, if the declared Commonwealth territory involved has similar provisions in its laws.

The new section 29 sets out the additional grounds on which the Minister may refuse to authorise the apprehension or surrender of a fugitive. The Minister may make this refusal if any of the following circumstances is present:

- (a) the person's conviction in the declared Commonwealth territory was obtained in his or her absence, unless he or she had deliberately absented himself or herself from the trial, or if he or she would be given a proper retrial upon surrender;
- (b) the offence was committed outside Singapore and the declared Commonwealth territory, and is not an extra-territorial offence under the law of, or of a part of, the declared Commonwealth territory;
- (c) the fugitive has become immune from prosecution or punishment under the law of Singapore or the law of, or of a part of, the declared Commonwealth territory for any reason.

The new section 30 enables a court in Singapore or in a declared Commonwealth territory to take into consideration other offences committed by the fugitive in sentencing the fugitive for the extradition offence if the fugitive consents.

## PART 6

### EXTRADITION TO AND FROM MALAYSIA

Clause 7 rennumbers the existing Part 5 as Part 6, consequential to the insertion of the new Part 2.

Clause 8 makes a technical amendment to section 32 to update the term "a seizable offence" to the modern term "an arrestable offence". The words "or any more severe punishment" are also inserted after the words "6 months or more" in subsection (2) to align with the definition of "extradition offence" in section 2.

Clause 9 amends section 33 to substitute the phrase "all police officers" with "all authorised officers", in line with the new definition of "authorised officer" to be inserted by clause 2. Minor amendments are also made to update the language of the section.

Clauses 10 to 14 make technical amendments to sections 34 to 38 to modernise the language and use gender-neutral language.

Clause 15 repeals the existing Part 6 and substitutes the new Parts 7, 8 and 9.

## PART 7

## CONVENTION OFFENCES

The new section 40 provides that the Act may be applied to states that are parties to a Convention to which Singapore is also a party. The Convention offences that are extraditable pursuant to Singapore's international obligations are listed in the new Fourth Schedule (to be inserted by clause 18). The Act can be applied to such a state (called a Convention State) by way of notification even though no extradition treaty is in force between Singapore and the Convention State. When the Act is applied, the Act has effect in relation to that Convention State as if the only extradition offences are the Convention offences of that State.

The new section 41 provides that when the Act is applied to a Convention State by way of notification, a Convention offence is deemed to be an offence within the jurisdiction of the Convention State, and, where the respective Convention Act so provides, these offences are also deemed not to be offences of a political character.

## PART 8

## EVIDENTIAL PROVISIONS

The new section 42 allows for the admission of a statement in evidence if it is made by a witness or victim to a police officer or another person charged with the duty of investigating offences or charging offenders (called an enforcement officer), and accompanied by an affidavit of a police officer or an enforcement officer verifying the statement. A statement that is a summary made by a police officer or an enforcement officer, of a statement given by a witness or victim, is also admissible.

The new section 43 is largely similar to the existing section 42(1) and (2), which provided that overseas documents may be admitted in evidence if duly authenticated. The new section 43 further clarifies that this is despite anything to the contrary in the Evidence Act 1893. Duly authenticated hearsay documents are therefore admissible in extradition proceedings.

The new section 44 sets out the evidential procedure of a record of the case in extradition proceedings before a Magistrate. In determining the sufficiency of evidence to warrant extradition, a record of the case or any other admissible evidence under the requesting party's law may be submitted, if there is a treaty or an agreement or arrangement allowing for this. The section also sets out the requirements of the record of the case. A record of the case is admissible as evidence if it is accompanied by certification by an authority of the requesting party. The record of the case mechanism is aimed to facilitate extradition proceedings by simplifying the procedure for admission of evidence.

The new section 45 applies sections 238A and 281 (except subsection (2)) of the CPC to extradition proceedings. The court may decide a matter without

hearing oral arguments or in an asynchronous manner by exchange of written correspondence, subject to the conditions in section 238A of the CPC. Extradition proceedings may also be conducted via video or television links, subject to the conditions in section 281 of the CPC.

The new section 46 is largely similar to the existing section 42(3), and provides that nothing in Part 8 prevents the proof of any matter or admission in evidence of any document in accordance with other written laws or common law rules in Singapore.

## PART 9

### MISCELLANEOUS

The new section 47 is largely similar to the existing section 40. The language of this provision has been modernised. For example, the term “aerodrome” is replaced by the term “airport”.

The new section 48 is largely similar to the existing section 2(7) and (8). District Judges have all the powers conferred upon and exercisable by a Magistrate under the Act, and have the jurisdiction to hear cases and commit fugitives to custody or prison to await surrender.

The new section 49 replicates the existing section 41, and sets out what the Minister may do when determining, in the case where multiple requests are made for the surrender of a fugitive, which requesting party to surrender the fugitive to. The Minister must consider all the circumstances of the case, in particular the severity of the offences, the dates on which the requests were made, and the fugitive’s nationality and ordinary residence.

The new section 50 allows the Attorney-General to delegate to a public officer any of the powers exercisable by the Attorney-General under the Act. A public officer so empowered may act for the Attorney-General in court proceedings, such as seeking a review of Magistrate orders or in referring a question of law of public interest to the Court of Appeal.

The new section 51 is largely similar to the existing section 43, which empowers the Minister to amend the Schedules to the Act. This section has been updated to include the new Fourth Schedule.

The new section 52 replicates the existing section 44, which empowers the Minister to make rules to carry out the purposes of the Act. The requirement that such rules be presented to Parliament has been removed. Technical amendments have also been made to modernise the language.

## SCHEDULES

Clause 16 repeals the existing First Schedule, which contained the list of extraditable offences under the list approach. A new First Schedule is enacted that sets out the excluded offences which are not extraditable even though their prescribed punishment meets the threshold for extradition. Any offence that does not fall within the definition of “drug dealing offence” or “serious offence” in section 2(1) of the Mutual Assistance in Criminal Matters Act 2000 is generally excluded. A number of offences under various Acts such as minor regulatory offences are also excluded. Also excluded are aiding, abetting, counselling or procuring the commission of, or being an accessory to, or attempting or conspiring to commit these offences.

Clause 17 makes consequential amendments to the Forms in the Second Schedule to reflect the amendments to section numbers in the body of the Act. Minor amendments are also made for clarity and to make the language gender-neutral. New Forms 10, 11 and 12 are also inserted. Form 10 is the Form to be used for a notice of application for review of a Magistrate’s order, and Form 11 is the Form to be used for the application for review of a Magistrate’s order. Form 12 is the Form to be used to apply for permission to refer a question of law of public interest to the Court of Appeal by a party who is not the Attorney-General.

## CONSEQUENTIAL AND RELATED AMENDMENTS

Clause 19 makes consequential and related amendments to the CPC. The reference to sections 10, 24 and 34 of the Act in section 95(1)(c) of the CPC is amended to reflect the updated numbering of sections in the Act. Paragraph (a) of section 417(1) of the CPC is also deleted as fugitives are no longer to use that provision for a review of order of detention, and must instead use the review mechanism under the Act. Section 417(2) of the CPC is also deleted for the same reason.

Clause 20 makes a consequential and related amendment to the Hijacking of Aircraft and Protection of Aircraft and International Airports Act 1978. Section 11(1) of that Act deemed offences under that Act or attempts to commit such offences to be included under the existing list approach for extradition offences. Since the list approach is now replaced by the threshold approach, section 11(1) is amended to state that offences under that Act or attempts to commit such offences are deemed to be extradition offences.

Clauses 21 to 24 and 26 to 29 make similar consequential and related amendments to the Hostage Taking Act 2010, the Internationally Protected Persons Act 2008, the Maritime Offences Act 2003, the Radiation Protection Act 2007, the Terrorism (Suppression of Bombings) Act 2007, the Terrorism (Suppression of Financing) Act 2002, the Terrorism (Suppression of Misuse of

Radioactive Material) Act 2017 and the United Nations Personnel Act 2011, respectively.

Clause 25 makes consequential and related amendments to the Supreme Court of Judicature Act 1969. Certain hearings relating to extradition proceedings are included as part of the appellate criminal jurisdiction of the General Division of the High Court, and as part of the criminal jurisdiction of the Court of Appeal.

Clause 30 contains saving and transitional provisions.

The general principle is that the amendments in the Bill will only apply to extradition proceedings commenced on or after the amendments come into operation (operative date). The amendments will also apply if the request for extradition is received before the operative date but the proceedings only commence on or after the operative date. Clause 30(1) and (5), read together, provides that where a proceeding has commenced before the operative date, the Act and the other Acts mentioned in clauses 19 to 29 as in force immediately before the operative date will apply. A proceeding commences when a fugitive is brought before the Magistrate under section 11(1), 25(1) or 35(1) of the Act as in force immediately before the operative date. In such cases, these proceedings may be conducted under the provisions of the existing Act as if they had not been amended.

Clause 30(2) provides that where a foreign State has an extradition treaty with Singapore prior to the commencement of the Bill, and the foreign State makes a request for surrender to Singapore, the applicable restrictions on surrender are those in the extradition treaty or in the unamended Act. Restrictions on surrender that were only implemented by the Bill, and that are not in the extradition treaty, do not apply.

Clause 30(3) provides that any declaration which made a country a declared Commonwealth country under section 19 of the unamended Act continues to be in force as if made under section 6(1) of the Act, as amended by the Bill, until it is revoked.

Clause 30(4) empowers the Minister to make regulations for a period of 2 years after the date of commencement of the Bill, for saving or transitional purposes as the Minister considers necessary or expedient.

## EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.

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